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F. Fiorillo

[1] *F. Fiorillo*
[2] Q: Other than what you claim took
[3] place in the Town of Southampton in 2006,
[4] with regard to any job that you sought
[5] employment for, do you have any knowledge
[6] one way or the other as to whether Hesse
[7] knew that you were applying for those jobs,
[8] whether in the law enforcement field or
[9] outside the law enforcement field?
[10] A: No.
[11] Q: And, likewise, you have no idea
[12] one way or the other as to whether Hesse
[13] interfered in any of your potential jobs
[14] that you sought employment for?
[15] A: I have no —
[16] Q: Whether in law enforcement or
[17] outside of law enforcement?
[18] A: I have no knowledge of that.
[19] Q: Let's go to page 42. You allege
[20] a RICO violation in the Thirteenth Cause of
[21] Action, do you see that?
[22] A: Yes.
[23] Q: Paragraph 180, you allege, "as
[24] set forth above, Defendant Hesse, a natural
[25] person, has violated the provisions of the

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[1] *F. Fiorillo*
[2] Racketeer Influenced and Corrupt
[3] Organizations Act by, among other things,
[4] engaging in two or more acts of obstruction
[5] of justice within 10 years, including
[6] without limitation," do you see that?
[7] A: Yes.
[8] Q: "A, ordering Plaintiffs to
[9] falsify official police records and
[10] ultimately terminating Plaintiffs'
[11] employment when they refused to do so," do
[12] you see that?
[13] A: Yes.
[14] Q: As it pertains to you, does A
[15] reference the time after the Halloween
[16] incident when Hesse told you that he wanted
[17] you to change your report because this is
[18] what happened? Well, you know what, I like
[19] it when you tell me what it is. What is A
[20] referring to?
[21] A: A?
[22] Q: Yeah. Subparagraph A, "ordering
[23] Plaintiffs to falsify official police
[24] records and ultimately terminating
[25] Plaintiffs' employment when they refused to

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[1] *F. Fiorillo*
[2] do so," as it pertains to you, what does A
[3] mean?
[4] A: A is the Halloween incident.
[5] Q: That we've already testified to?
[6] A: Correct.
[7] Q: Anything else you want to add to
[8] that?
[9] A: That's the only thing that had to
[10] do with falsifying official — let me just
[11] think for a second.
[12] Q: Okay.
[13] A: What about summonses?
[14] Q: Tell me.
[15] A: That's official police records
[16] that he — that he altered.
[17] Q: No, not that he altered. He's
[18] asking you to falsify. Did police — did
[19] Hesse ever order you to falsify a summons?
[20] Not whether he did. Whether he ordered you
[21] to do it. That's my question.
[22] A: Okay. The one off the top of my
[23] head is the Halloween statement.
[24] Q: Okay. But my question is, did
[25] Hesse ever order you to falsify a summons?

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[1] *F. Fiorillo*
[2] Putting aside the Halloween incident, did
[3] Hesse ever order you to falsify a summons?
[4] MR. GOODSTADT: Objection.
[5] A: Well, technically, yes.
[6] Q: Technically or untechnically, why
[7] don't you tell me?
[8] A: I had to go get a summons that I
[9] issued from the violator, bring it back to
[10] the station with the owner of the
[11] business — okay. You want me to explain it
[12] to you?
[13] Q: Well, you said technically —
[14] A: Yes. The answer is yes.
[15] Q: Well, then tell me — tell me how
[16] Hesse ordered you to falsify a summons?
[17] A: Okay. I was on patrol and in the
[18] Village of Ocean Beach they have a code that
[19] at a certain point in time, bicycle riding
[20] is restricted. So the residents of the
[21] Village want this code enforced. I enforce
[22] the law in the Village as a police officer,
[23] and this one subject was violating the code.
[24] So I issued him a summons.
[25] Q: Okay.

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- [1]
[2] **A:** Okay? So what happened was the
[3] father of the son went to the police
[4] station.
[5] **Q:** Okay.
[6] **A:** Okay? And first of all, when I
[7] issued the summons to the son, the father
[8] said, "What are you doing?" He said, "You
[9] got to take this back." He said, "I take
[10] care of the Bosettis," okay?
[11] **Q:** Okay.
[12] **A:** So I said, "You're gonna have to
[13] go to court with that, and you know, you go
[14] to court and the judge is going to decide
[15] whatever he's going to decide. I have
[16] nothing to do with it after I issue the
[17] summons."
[18] **Q:** And you had already issued the
[19] summons?
[20] **A:** I already issued it.
[21] **Q:** Okay. So go on.
[22] **A:** So then what he did was he got
[23] upset and he went to the station. I went to
[24] the station with him.
[25] **Q:** Okay.

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- [1]
[2] **A:** Okay? So he was ranting and
[3] raving how much he pays in taxes in the
[4] Village of Ocean Beach.
[5] **Q:** Um-hum.
[6] **A:** And what Hesse did was he took
[7] the summons back. Then he had me go get the
[8] summons from the — because what I have to
[9] do is I have to give a copy to the, um, the
[10] violator.
[11] **Q:** So the — how old was the
[12] violator?
[13] **A:** Maybe 19 or 20.
[14] **Q:** Okay.
[15] **A:** Um, it was — it was the, um,
[16] son of this business owner.
[17] **Q:** Okay.
[18] **A:** Okay? So what happened was —
[19] **Q:** Hesse told you to go get the
[20] summons from the violator?
[21] **A:** Right.
[22] **Q:** Did you?
[23] **A:** Yeah.
[24] **Q:** And what did you do with it?
[25] **A:** I gave it to Hesse.

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- [1]
[2] **Q:** Okay. So did you falsify
[3] anything on the summons that you had issued
[4] after you issued it?
[5] **A:** Well, he ordered me to take the
[6] summons back. I mean, that's pretty —
[7] **Q:** Sir, you're alleging "ordered
[8] Plaintiffs to falsify official police
[9] records." Did you change the writing on the
[10] summons after you issued it?
[11] **A:** I didn't change it at all.
[12] **Q:** That's fine. And you didn't
[13] refuse Hesse's direction to get the summons
[14] back?
[15] **A:** No.
[16] **Q:** Right. Well, you write in
[17] paragraph A, "Ordered Plaintiffs to falsify
[18] official police records and ultimately
[19] terminating Plaintiffs' employment when they
[20] refused to do so." So this one really
[21] wouldn't apply to that summons, would it,
[22] because you didn't refuse Hesse's direction?
[23] **MR. GOODSTADT:** Objection.
[24] **Q:** Right?
[25] **A:** Okay.

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F. Fiorillo

- [1]
[2] **Q:** Okay. So other than the
[3] Halloween police report that you've
[4] testified about already, any other police
[5] records that Hesse ordered you to falsify
[6] that you refused to do?
[7] **A:** Not that I can recall at this
[8] time.
[9] **Q:** Okay. Let's go to B,
[10] "Prohibiting Plaintiffs from interfering
[11] with the unlawful activities of a known drug
[12] dealer operating within the jurisdiction of
[13] the OBPD," do you see that?
[14] **A:** Yes.
[15] **Q:** Who was this known drug dealer?
[16] **A:** Mitch Burns.
[17] **Q:** Okay. And are you — is it your
[18] allegation that George Hesse prohibited you
[19] specifically from interfering with the
[20] unlawful activities of Mr. Burns operating
[21] within the jurisdiction?
[22] **A:** Yes.
[23] **Q:** Okay. Now, did you ever witness
[24] Mr. Burns selling drugs in the jurisdiction
[25] of the Ocean Beach Police Department?

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F. Fiorillo

[1]
[2] **A:** There was an incident at the
[3] church where —
[4] **Q:** We'll get to that. But my
[5] question to you, sir, did you ever witness
[6] Mitchell Burns selling drugs in the
[7] jurisdiction of the Ocean Beach Police
[8] Department?
[9] **A:** I witnessed what appeared to be a
[10] drug transaction by Mitch Burns.
[11] **Q:** Okay. And describe for me your
[12] witnessing of the drug transaction involving
[13] Mitch Burns.
[14] **A:** Um, it was a — it was about
[15] 2:30 in the morning at the church on Ocean
[16] Road and Midway Walk.
[17] **Q:** Okay. What year?
[18] **A:** I would say that was 2004.
[19] **Q:** Okay. What did you witness?
[20] **A:** I witnessed, um, Mitch Burns and
[21] this male subject, his name was Adam, he was
[22] on the Ocean Beach basketball team, and they
[23] were making a — an exchange of what
[24] appeared to be cocaine.
[25] **Q:** Well, what made — gave you the

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F. Fiorillo

[1] impression that what you saw would appear to
[2] be cocaine?
[3] **A:** It was a white powdery substance
[4] in a — like a glazing bag.
[5] **Q:** How far away were you when you
[6] witnessed this transaction?
[7] **A:** Pretty close. Like pretty close
[8] (indicating).
[9] **Q:** Were you in uniform?
[10] **A:** Yeah. I was on duty.
[11] **Q:** So you're standing about three
[12] feet, four to five feet away from Mitch
[13] Burns and this other individual, and you saw
[14] Mitch Burns hand him a vial of cocaine?
[15] **A:** No. Not vial.
[16] **Q:** A bag?
[17] **A:** It's a little bag like this
[18] (indicating).
[19] **Q:** Transparent?
[20] **A:** Yeah.
[21] **Q:** And did you see the individual
[22] give Mitch Burns money?
[23] **A:** No.
[24] **Q:** Okay. Did Mitch Burns know that

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[1]
[2] you were standing five feet away from him?
[3] **A:** No.
[4] **Q:** Okay. So was George Hesse with
[5] you?
[6] **A:** No.
[7] **Q:** Was anyone with you?
[8] **A:** Yes.
[9] **Q:** Who was with you?
[10] **A:** Joe Nofi.
[11] **Q:** Okay. Oh, Joe Nofi. Okay. And
[12] what police action did you take upon your
[13] witnessing of what you believed to be was a
[14] drug deal?
[15] **A:** I didn't take any police action.
[16] **Q:** Why not?
[17] **A:** Because George Hesse told me
[18] whatever — whatever — if anything has to
[19] do with Mitch Burns, hands off. Look the
[20] other way.
[21] **Q:** And when did George Hesse tell
[22] you this?
[23] **A:** This was — the night that he
[24] told me?
[25] **Q:** Yeah.

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F. Fiorillo

[1]
[2] **A:** I was called to the station to
[3] pick him up and then I was in the gem car.
[4] And then what I did was I dropped him off at
[5] Mitch Burns' house. He said, "Whatever
[6] happens here with — between the drugs and
[7] the girls, we look the other way."
[8] **Q:** George Hesse said that?
[9] **A:** George Hesse said that.
[10] **Q:** Okay. In the same season that
[11] you saw Mitch Burns hand this other
[12] individual what you thought to be cocaine?
[13] **A:** Yes.
[14] **Q:** And how old was this other
[15] individual? You said he played for the
[16] Ocean Beach Police — basketball team?
[17] **A:** Yes.
[18] **Q:** How old was he?
[19] **A:** I would say in his 30s.
[20] **Q:** Okay.
[21] **MR. GOODSTADT:** It's a well
[22] known team.
[23] **MR. NOVIKOFF:** Yeah. I guess.
[24] **A:** It's not the Ocean Beach team.
[25] It's the Ocean Beach league they have in the

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[1] *F. Fiorillo*

[2] summertime.

[3] Q: Okay. And did you say anything

[4] to these two individuals?

[5] A: I asked them what they were doing

[6] on the property.

[7] Q: And what did they say?

[8] A: Well, then Mitch just broke out

[9] to a — to a real big sweat.

[10] Q: Okay.

[11] A: And they didn't have an answer.

[12] They were just hanging out.

[13] Q: And did you take the substance

[14] away from the individual?

[15] A: No.

[16] Q: No? Well, why not?

[17] A: Because I had a feeling that if I

[18] did anything with Mitch Burns, my job was

[19] going to be in jeopardy. Because at the

[20] time, George Hesse was sleeping at Mitch

[21] Burns' house because he was having marital

[22] problems with his wife.

[23] Q: So you allowed an individual in

[24] your presence to walk away with what you

[25] believed to be cocaine, right?

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[1] *F. Fiorillo*

[2] A: Yes.

[3] Q: Notwithstanding whatever health

[4] concerns or public safety concerns could

[5] result from that, is that your testimony?

[6] A: Based on what George Hesse told

[7] me.

[8] Q: Now you had — you complained —

[9] did you complain to Paridiso about this?

[10] A: No.

[11] Q: Now you complained to Paridiso

[12] about the Bosettis throwing a cabinet into

[13] the bay, right?

[14] A: That's right.

[15] Q: And you complained to Paridiso

[16] about Hesse telling you that he wanted you

[17] to change your report, right?

[18] A: Right.

[19] Q: And you complained to Paridiso

[20] about the Bosettis drinking in the Village

[21] and Muller drinking in the Village, right?

[22] A: Right.

[23] Q: So is it your contention to this

[24] jury that notwithstanding the fact that you

[25] witnessed an illegal transaction, you made

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[1] *F. Fiorillo*

[2] no complaints to the chief of police?

[3] MR. GOODSTADT: Objection.

[4] Q: Is that your — is that what

[5] your testimony is?

[6] A: Well, I never — I never checked

[7] the substance, so I don't know if it was

[8] drugs.

[9] Q: Oh. Okay.

[10] A: But in my opinion, it was a good

[11] possibility.

[12] Q: A good possibility that what two

[13] individuals exchanged was drugs. Fine. Did

[14] you even go to Chief Paridiso and tell him

[15] that you were prevented from enforcing your

[16] job, putting the public safety at risk,

[17] because of what Chief Hesse — what

[18] Mr. Hesse told you?

[19] A: No.

[20] Q: And Mr. Hesse had previously told

[21] you, sir, that not to do anything with

[22] regard to the known drug dealer, right?

[23] A: Yes.

[24] Q: And at no time did you advise

[25] Mr. Paridiso about this, correct?

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[1] *F. Fiorillo*

[2] A: Correct.

[3] Q: Even though you swore to uphold

[4] the law, correct?

[5] A: Correct.

[6] Q: Even though the primary objective

[7] of being a police officer was to ensure the

[8] safety of the individual citizens within the

[9] jurisdiction and anyone else within the

[10] jurisdiction, correct?

[11] A: Yes.

[12] Q: So if I understand you correctly,

[13] and please tell the jury this,

[14] notwithstanding the fact that you were told

[15] by Mr. Hesse not to enforce the law against

[16] Mr. Burns, and that the public safety could

[17] be at issue because of what Mr. Burns was

[18] doing, you did not go to your superior,

[19] Mr. Paridiso, and make a complaint?

[20] MR. GOODSTADT: Objection.

[21] Q: Correct?

[22] A: Correct.

[23] Q: So you knowingly allowed a drug

[24] dealer to do whatever he was doing in Ocean

[25] Beach that could put the safety of the

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[1] **F. Fiorillo**
[2] citizens in jeopardy, correct?
[3] **A:** Not only me. What about George
[4] Hesse?
[5] **Q:** You're — you're answering the
[6] question, sir, that I'm asking you. You
[7] would agree with me, right?
[8] **A:** Yes.
[9] **Q:** And you didn't tell Mayor Rogers?
[10] **A:** No.
[11] **Q:** You didn't tell any trustees?
[12] **A:** No.
[13] **Q:** You didn't — you didn't even
[14] send an anonymous — well, let me ask you,
[15] did you send any anonymous notes or
[16] communications to anyone at Ocean Beach
[17] about this?
[18] **A:** No.
[19] **Q:** No, right?
[20] **A:** Right.
[21] **Q:** You didn't send any anonymous
[22] communications to the DA, right?
[23] **A:** No.
[24] **Q:** You didn't send any anonymous
[25] communications to any media outlet, right?

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[1] **F. Fiorillo**
[2] **A:** Well, when you say "anonymous" —
[3] **Q:** Did you call up News 12 and say
[4] "hey, listen, I can't tell you who my name
[5] is, but I'm being told by my police sergeant
[6] not to enforce the laws against a drug
[7] dealer"?
[8] **A:** No. But I did tell the DA's
[9] office.
[10] **Q:** After August 2005, right?
[11] **A:** Yes.
[12] **Q:** And that was after they came to
[13] you about the Gilbert incident, correct?
[14] **A:** Correct.
[15] **Q:** You didn't voluntarily go to the
[16] DA with this information, did you?
[17] **A:** No.
[18] **Q:** Right. You then write in
[19] subparagraph C, "ordering Plaintiffs to
[20] facilitate other officers' dereliction of
[21] duty, including without limitation, by
[22] allowing those officers to imbibe
[23] intoxicating beverages while on duty," what
[24] do you mean by that?
[25] **A:** Well, we were — we were told to

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[1] **F. Fiorillo**
[2] look the other way with the, um, with the —
[3] as far as the Bosettis go.
[4] **Q:** What were you told with regard to
[5] looking the other way?
[6] **A:** Well, I was told not to go crying
[7] to the chief.
[8] **Q:** Anything else that you were told?
[9] **A:** Well, I was told to drive
[10] officers to the checkpoint.
[11] **Q:** Okay. Anything else?
[12] **A:** I was told to pick them up at the
[13] bars.
[14] **Q:** The Bosettis. Anything else.
[15] Well, the Bosettis you're referring to?
[16] **A:** Well, the Bosettis. Walter
[17] Muller.
[18] **Q:** Okay.
[19] **A:** Sometimes Ty Bacon. It wasn't
[20] always the Bosettis. It was, you know,
[21] there were other officers also.
[22] **Q:** Okay. Anything else?
[23] **A:** Well, that's all I can recall at
[24] this time.
[25] **Q:** Were you the only person to ever

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[1] **F. Fiorillo**
[2] be directed by Mr. Hesse to drive officers
[3] to the checkpoint?
[4] **A:** No.
[5] **MR. GOODSTADT:** Objection.
[6] **Q:** To your knowledge, who else
[7] was — was directed by Hesse to drive
[8] officers to the checkpoint?
[9] **A:** I think Joe Nofi.
[10] **Q:** Um-hum.
[11] **A:** Tommy Snyder. Kevin Lamm. Eddie
[12] Carter.
[13] **Q:** Were you aware if any other
[14] officers who were on different shifts would
[15] drive police officers to checkpoints at the
[16] end of their shifts?
[17] **A:** If I wasn't there, I wouldn't
[18] know who he had.
[19] **Q:** Well, you did come to the
[20] checkpoint when you started your shift,
[21] right?
[22] **A:** No. I came on the ferry.
[23] **Q:** Okay. Then let's talk about D.
[24] Well, did you ever send a — an anonymous
[25] communication to anyone concerning the fact

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F. Fiorillo

[1] that you were being directed by Hesse to
[2] drive officers off to the checkpoint or take
[3] them out of the bars?
[4] **MR. GOODSTADT:** Objection.
[5] **A:** Say that — I'm sorry.
[6] **Q:** Well, did you ever complain by
[7] way of any communication, um, that you were
[8] being directed by George Hesse to drive the
[9] Bosettis and other officers to the
[10] checkpoint?
[11] **A:** Did I ever complain about that?
[12] No.
[13] **Q:** And I think you mentioned you
[14] had — you were ordered to take some of the
[15] officers out of bars?
[16] **A:** Yeah. Pick them up at the bars
[17] when they were coming out of the bars.
[18] **Q:** And take them where, if anywhere?
[19] **A:** To the checkpoint.
[20] **Q:** So that's all in one, take them
[21] out of the bar?
[22] **A:** Yeah. Basically through Ocean
[23] Beach to the checkpoint.
[24] **Q:** Did you ever complain about that?
[25]

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F. Fiorillo

[1] **A:** Um, there was one night in
[2] particular that I complained about, um,
[3] Richie Bosetti driving the vehicle — well,
[4] I wasn't driving that night. You want to
[5] hear about that?
[6] **Q:** No. I'm just interested in if
[7] you complained.
[8] **A:** Well, it's in reference to a
[9] complaint.
[10] **Q:** What did you complain about?
[11] **A:** About Richie Bosetti driving the
[12] police vehicle to the checkpoint and
[13] offering a Marine Bureau police — Suffolk
[14] County Marine Bureau police officer a beer,
[15] while the Marine Bureau police officer was
[16] on duty.
[17] **Q:** And who did you complain to?
[18] **A:** The chief.
[19] **Q:** Chief Paridiso?
[20] **A:** (Indicating).
[21] **Q:** So that's another complaint that
[22] you —
[23] **A:** Well, I just remember that one
[24] now because of the transporting.
[25]

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F. Fiorillo

[1] **Q:** And when did that take place?
[2] **A:** That was in 2004.
[3] **Q:** And why didn't you complain to
[4] Hesse first about that?
[5] **A:** Because at that time, that was
[6] when the chief was trying to enforce the
[7] rules in the Village, and Hesse wasn't doing
[8] anything to enforce them himself.
[9] **Q:** Okay. So if I understand your
[10] testimony then, at some point in time in
[11] 2004, you witnessed Richard Bosetti offering
[12] a —
[13] **A:** Suffolk County police — Marine
[14] Bureau police officer on duty in his
[15] vehicle —
[16] **Q:** A beer?
[17] **A:** A beer.
[18] **Q:** Did that police officer take the
[19] beer?
[20] **A:** No.
[21] **Q:** And you felt the need to complain
[22] to Chief Paridiso about that?
[23] **A:** That made the department look
[24] so — I mean, it was — it was a disgrace.
[25]

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F. Fiorillo

[1] I felt that to be a disgrace that here he
[2] is, I mean, embarrassing us basically.
[3] **Q:** Did the marine officer indicate
[4] that it was an embarrassment to be offered a
[5] beer while on duty in your presence? I'm
[6] only asking —
[7] **MR. GOODSTADT:** Objection.
[8] **A:** In my presence, I think he was
[9] pretty shocked by his reaction.
[10] **Q:** Okay. What was his reaction?
[11] **A:** His recollection was, "No way."
[12] He goes, "I'm on duty," you know.
[13] **Q:** Did you complain to anybody else?
[14] **A:** No.
[15] **Q:** Let's go to D, "conspiring with
[16] Alison Sanchez to prevent Plaintiffs from
[17] taking any action that might prevent Hesse
[18] from perpetrating similar acts on an ongoing
[19] basis"?
[20] **A:** Where is this?
[21] **Q:** D, on the bottom of 42.
[22] **A:** Bottom of 42?
[23] **MR. GOODSTADT:** What's the
[24] question about it?
[25]

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[1] *F. Fiorillo*
[2] **MR. NOVIKOFF:** What did he mean
[3] by that.
[4] **MR. GOODSTADT:** Objection.
[5] **A:** Well, Alison Sanchez was the one
[6] who we went to — Joe Nofi, Kevin Lamm and
[7] myself — and she actually told us that we
[8] couldn't go on any further than her. So she
[9] basically prevented us from — from going
[10] forward which — which might have prevented
[11] Hesse from perpetrating similar acts on an
[12] ongoing basis.
[13] **Q:** Might have. You said Alison
[14] Sanchez prevented you. Would you agree with
[15] me the fact that I've been asking you
[16] questions for five hours at a deposition in
[17] a complaint that you filed alleging all of
[18] these activities involving Mr. Hesse,
[19] indicates that you weren't in fact prevented
[20] by anyone to — trying to ensure that George
[21] Hesse didn't do this anymore?
[22] **MR. GOODSTADT:** Objection.
[23] **Q:** Do you understand what I'm
[24] saying?
[25] **A:** Not really.

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[1] *F. Fiorillo*
[2] **Q:** All right. Well, you just said
[3] in the Complaint and in your testimony that
[4] Alison Sanchez conspired with George Hesse
[5] to prevent you from preventing Hesse from
[6] perpetrating similar acts that were alleged
[7] in your Complaint, do you see that?
[8] **A:** Yes.
[9] **Q:** You filed a lawsuit, right?
[10] **A:** Yes.
[11] **Q:** In this lawsuit, you've alleged
[12] that Hesse has committed a lot of unlawful
[13] acts, right?
[14] **A:** Yes.
[15] **Q:** And a lot of acts that weren't
[16] nice to you, right?
[17] **A:** Yes.
[18] **Q:** How could you have done that if
[19] Alison Sanchez, as you've testified,
[20] prevented you from doing this?
[21] **MR. GOODSTADT:** Objection.
[22] **Q:** It's a mind twister, isn't it?
[23] **MR. GOODSTADT:** Objection.
[24] **A:** I'm trying to think of how to
[25] answer it.

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[1] *F. Fiorillo*
[2] **Q:** I'm trying to think how you're
[3] going to answer it.
[4] **MR. GOODSTADT:** Objection.
[5] **A:** Well, what Alison Sanchez and
[6] Hesse did to Joe, Kevin and myself and they
[7] got away with doing that, if they got away
[8] with doing that, then they can continue to
[9] do that on an ongoing basis if — if we
[10] didn't do anything about it.
[11] **Q:** Yeah. But that — what you've
[12] alleged is that Sanchez prevented you from
[13] preventing Hesse from perpetrating similar
[14] acts on an ongoing basis, sir. You filed
[15] this lawsuit, correct?
[16] **A:** Correct.
[17] **Q:** So explain to the jury how Alison
[18] Sanchez prevented you from doing anything?
[19] **MR. GOODSTADT:** Objection.
[20] **A:** Well, she initially was the cause
[21] of these officers who came to Ocean Beach as
[22] civilians that were working for a — a few
[23] years.
[24] **Q:** She initially was the cause, is
[25] that your testimony?

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[1] *F. Fiorillo*
[2] **A:** Well, she had — she — with —
[3] her and Hesse, both of them involved.
[4] **Q:** I'll move on. I just want to go
[5] back to some questions about your
[6] employment. When you first joined the
[7] police department at Ocean Beach, were you
[8] qualified as you've alleged other officers
[9] weren't?
[10] **A:** Absolutely I was qualified. 100
[11] percent.
[12] **Q:** You were qualified? You passed
[13] all your tests?
[14] **A:** Everything.
[15] **Q:** At no time did you have any
[16] retake any tests?
[17] **A:** None.
[18] **Q:** Okay. Now prior to January 1,
[19] 2006 — well, let's just go back. Between
[20] the time you first started at Ocean Beach
[21] and January 1, 2006, what jobs in the law
[22] enforcement field did you apply for?
[23] **A:** Prior to — excuse me?
[24] **Q:** Between your first day at Ocean
[25] Beach in 2002 and January 1, 2006, what jobs

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[1] **F. Fiorillo**
[2] in the law enforcement field had you applied
[3] for?
[4] **A:** I believe I only applied for one
[5] job.
[6] **Q:** In the entire span of that time?
[7] **A:** That I can remember.
[8] **Q:** What job was that?
[9] **A:** FBI.
[10] **Q:** Did you get it?
[11] **A:** No.
[12] **Q:** In fact, didn't Ty Bacon give you
[13] a recommendation?
[14] **A:** I don't know who gave
[15] recommendations.
[16] **Q:** Did you ever ask Ty Bacon to give
[17] you a recommendation for that job?
[18] **A:** No.
[19] **Q:** Did you ask Ty Bacon to do
[20] anything with regard to that job?
[21] **A:** No. What happened was the —
[22] **Q:** I'm just asking a question. So
[23] Ty Bacon, you asked nothing of Ty Bacon with
[24] regard to your application to the FBI, is
[25] that your testimony?

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[1] **F. Fiorillo**
[2] **A:** I have to say "no" with an
[3] explanation.
[4] **Q:** Fine. Give me the explanation.
[5] **A:** I didn't ask anybody for a
[6] reference because what the investigator did
[7] was he went to Ocean Beach and Chief
[8] Paridiso gave him the names to give the
[9] investigator the, um, recommend — the
[10] reference. I had nothing to do with it.
[11] **Q:** Let's go to page 41. 176, do you
[12] see that?
[13] **A:** Yes.
[14] **Q:** Now above that this is the
[15] Twelfth Cause of Action, right?
[16] **A:** Yes.
[17] **Q:** And you entitle it "Negligent
[18] Retention of an Unfit Employee Under State
[19] Law," do you see that?
[20] **A:** Yes.
[21] **Q:** Let's go to 176. You write or
[22] you allege "as set forth above, Defendants
[23] Hesse, Ocean Beach, OBPD and Suffolk County
[24] Civil Service, deliberately retained and
[25] advanced the careers of uncertified and

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[1] **F. Fiorillo**
[2] unqualified personnel who served alongside
[3] Plaintiffs as police officers," do you see
[4] that?
[5] **A:** Yes.
[6] **Q:** How come you didn't make the same
[7] allegation about Chief Paridiso?
[8] **MR. GOODSTADT:** Objection.
[9] **A:** What do you mean by that?
[10] **Q:** Well, Chief Paridiso was
[11] Defendant Hesse's superior in 2002, 2003,
[12] 2004 and part of 2005, correct? Right?
[13] **A:** Yeah. But George Hesse —
[14] **Q:** Sir, was —
[15] **A:** Yes.
[16] **Q:** Yes?
[17] **A:** Yes.
[18] **Q:** And you testified earlier that
[19] you don't know who had the authority at
[20] Ocean Beach to hire people, right?
[21] **A:** Yes.
[22] **Q:** So my question to you, sir, is
[23] why didn't you include Chief Paridiso in
[24] this allegation?
[25] **MR. GOODSTADT:** Objection. To

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[1] **F. Fiorillo**
[2] the extent that — I just want to
[3] caution you — to the extent that the
[4] decision was made in consultation with
[5] your lawyers or any strategic decisions
[6] who to sue and not to sue was made in
[7] consultation with a lawyer, I'm going
[8] to instruct you not to answer.
[9] **THE WITNESS:** Okay.
[10] **Q:** You can't answer that?
[11] **A:** Based on my attorney's advice.
[12] **Q:** Okay. You then go on — I don't
[13] know if I continued — "who served alongside
[14] Plaintiffs as police officers, while
[15] Defendant Loeffler, mayor of Ocean Beach,
[16] negligently permitted Hesse to do so," do
[17] you see that?
[18] **A:** Where? 41?
[19] **Q:** 176 on page 41.
[20] **A:** Yup.
[21] **Q:** Do you see reference to —
[22] **A:** Okay. I got it.
[23] **Q:** — Defendant Loeffler?
[24] **A:** Yes.
[25] **Q:** On April 2, 2006, Loeffler wasn't

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[1] *F. Fiorillo*
[2] the mayor, was he?
[3] **A:** No.
[4] **MR. GOODSTADT:** Objection.
[5] It's pretty clear on 177 that he
[6] wasn't.
[7] **MR. NOVIKOFF:** Okay.
[8] **Q:** So Loeffler was not the mayor?
[9] **A:** Correct.
[10] **Q:** So how could Mayor Loeffler have
[11] negligently permitted Hesse to do so if he
[12] wasn't the mayor?
[13] **MR. GOODSTADT:** Objection.
[14] **Q:** In your opinion?
[15] **MR. GOODSTADT:** Objection.
[16] It's set forth in 177.
[17] **MR. NOVIKOFF:** That's nice. If
[18] you need to read it, you can read it.
[19] **MR. GOODSTADT:** I'll object to
[20] the question. It calls for a legal
[21] conclusion.
[22] **MR. NOVIKOFF:** Okay. You can
[23] answer.
[24] **Q:** I'll make my question even
[25] simpler. If Hesse was not the mayor at the

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[1] *F. Fiorillo*
[2] time that you left —
[3] **A:** If Loeffler.
[4] **Q:** If Loeffler was not the mayor at
[5] the time that you left on April 2, 2006, how
[6] could he have negligently permitted the —
[7] the continuation of the careers —
[8] **MR. GOODSTADT:** Objection.
[9] **Q:** Of these unqualified officers?
[10] **MR. GOODSTADT:** Same objection.
[11] **A:** As the village trustee, he did.
[12] **Q:** And what's the basis for your
[13] opinion that the village trustee, Hesse, had
[14] the authority —
[15] **A:** No.
[16] **Q:** I mean Loeffler had the authority
[17] to hire or fire any employee by himself?
[18] **A:** No. No. I don't know that.
[19] **Q:** Oh, you don't know that?
[20] **A:** (Indicating).
[21] **Q:** Okay.
[22] **A:** But he has a direct vote I would
[23] imagine.
[24] **Q:** One of five, right?
[25] **A:** Right.

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[1] *F. Fiorillo*
[2] **Q:** Okay. Do you have any indication
[3] one way or the other as to whether Loeffler
[4] ever voted on this issue?
[5] **A:** I don't know.
[6] **Q:** Right. Okay. You then go on
[7] "Defendant Hesse had knowledge of the undue
[8] risk of harm to which Plaintiffs were
[9] thereby exposed." Let me ask you this
[10] question, sir —
[11] **A:** Where are you? I'm sorry.
[12] **Q:** Same 176.
[13] **A:** Okay.
[14] **Q:** "Negligently permitted Hesse to
[15] do so. Defendant Hesse had knowledge of the
[16] undue risk of harm to which Plaintiffs were
[17] thereby exposed," do you see that?
[18] **A:** Okay.
[19] **Q:** Tell the jury, in your own words,
[20] how you, Mr. Fiorillo, have been physically
[21] injured as a result of the uncertified and
[22] unqualified personnel serving alongside you?
[23] **MR. GOODSTADT:** Objection.
[24] **A:** We had the risk of physical
[25] injury.

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[1] *F. Fiorillo*
[2] **Q:** Oh, I can read, sir. I'm asking
[3] you to tell the jury what physical injuries
[4] you've suffered as a result of the
[5] uncertified and unqualified personnel that
[6] you served alongside?
[7] **MR. GOODSTADT:** Objection.
[8] **A:** I think because of them being
[9] unfit to be qualified for the position of
[10] police officer, that's why I'm — I'm in the
[11] position I am in right now.
[12] **Q:** Oh, no. I get that aspect of
[13] your claim.
[14] **A:** So physically it affected me.
[15] **Q:** Tell the jury specifically what
[16] physical injury you have suffered as a
[17] result of serving alongside of uncertified
[18] and unqualified personnel?
[19] **MR. GOODSTADT:** Objection.
[20] **Q:** Okay.
[21] **A:** Physical injury?
[22] **Q:** Physical injury.
[23] **A:** I think I'm damaged, to be honest
[24] with you, physically.
[25] **Q:** That's what I'm asking.

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[1] *F. Fiorillo*
[2] **A:** I'm damaged. It affected me
[3] physically.
[4] **Q:** What physical injury have you
[5] suffered? Have you suffered a broken arm?
[6] Well, you know what, let me make it — let
[7] me see. You got one more minute left?
[8] Prior to April 2, 2006, what physical injury
[9] did you suffer as a result of working
[10] alongside uncertified and unqualified
[11] officers?
[12] **MR. GOODSTADT:** Objection.
[13] **A:** Well, physically working with
[14] uncertified officers in — in the, um, in
[15] working as a police officer in Ocean Beach,
[16] there was — there was — physically you
[17] weren't assured that you had a police
[18] officer on your side or backing you up in an
[19] emergency situation that, number one, knew
[20] the ten codes, number two, knew how to
[21] handle a situation without — without being
[22] under the influence of drug — alcohol.
[23] Excuse me. Alcohol.
[24] **Q:** Actually, we're running out of
[25] time. Do you want to just pick that answer

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[1] *F. Fiorillo*
[2] up when we're done? We can read what you
[3] had said so far and then you can continue?
[4] **A:** Whatever you want.
[5] **MR. NOVIKOFF:** Yeah. Let's do
[6] that.
[7] **THE VIDEOGRAPHER:** This ends
[8] tape number five. The time it 4:50
[9] p.m. Going off the record.
[10] (A break was taken.)
[11] **THE VIDEOGRAPHER:** This begins
[12] tape number six. The time is 5:01 p.m.
[13] Back on the record.
[14] **MR. NOVIKOFF:** I'm going to ask
[15] the court reporter to read back your
[16] answer so that — since we stopped
[17] because the tape ended, so that if you
[18] want to finish it or complete it, by
[19] all means do so.
[20] **THE WITNESS:** Okay.
[21] (The requested portion was read.)
[22] **Q:** Do you want to finish your
[23] answer?
[24] **A:** Yes.
[25] **Q:** Go ahead.

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[1] *F. Fiorillo*
[2] **A:** Um, with that, there was always
[3] the potential to, um, have the risk of
[4] injury, but at that time, I didn't get
[5] any — I didn't receive any injuries.
[6] **MR. NOVIKOFF:** Okay. I'm going
[7] to move to strike that answer. And
[8] just so that the record's clear, and I
[9] know your counsel's going to object,
[10] and that's fine.
[11] **Q:** Prior to April 2, 2006, what
[12] physical injury, if any, did you suffer as a
[13] result of serving alongside unqualified and
[14] uncertified officers?
[15] **MR. GOODSTADT:** Objection.
[16] **A:** No physical injury.
[17] **Q:** Okay. Let's go to page 40.
[18] Paragraph 171. Now, sir, in the Eleventh
[19] Cause of Action, you title it "Termination
[20] in Violation of Public Policy Under State
[21] Law," do you see that?
[22] **A:** Yes.
[23] **Q:** Please tell the jury what the
[24] Public Policy of New York State is that you
[25] believe my clients have violated?

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[1] *F. Fiorillo*
[2] **MR. GOODSTADT:** Objection.
[3] It's a legal conclusion. That's a
[4] strictly legal question.
[5] **MR. NOVIKOFF:** I'm asking the
[6] witness.
[7] **MR. GOODSTADT:** Did you want to
[8] explain what section 1983 is also?
[9] **Q:** Sir, please identify the public
[10] policy.
[11] **MR. GOODSTADT:** That's a legal
[12] conclusion. I'm going to object.
[13] **MR. NOVIKOFF:** Your objection's
[14] noted.
[15] **A:** That would be a legal policy.
[16] **Q:** Yeah. I'm — what's the public
[17] policy of New York State that my clients
[18] have violated?
[19] **MR. GOODSTADT:** Objection. You
[20] can answer, if you know.
[21] **Q:** If you don't know, then you say
[22] "I don't know."
[23] **A:** I don't know.
[24] **Q:** Okay. Let's go to paragraph 171.
[25] "As set forth above, Defendants terminated

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F. Fiorillo

[1]
[2] Plaintiffs' employment because Plaintiffs
[3] complied with and/or refused to violate laws
[4] and regulations governing law enforcement
[5] personnel in Ocean Beach, Suffolk County."
[6] Sir, were the criminal procedure laws of New
[7] York State be applicable to Ocean Beach
[8] police officers?
[9] **MR. GOODSTADT:** Objection.
[10] **Q:** In terms of how they go about
[11] enforcing the law?
[12] **A:** Yes.
[13] **Q:** Okay.
[14] **A:** With and including the Ocean
[15] Beach Village code.
[16] **Q:** Fine. And is it against the law,
[17] to your knowledge, to sell cocaine to an
[18] individual?
[19] **A:** Yes.
[20] **Q:** Is it a felony to sell —
[21] **A:** Yes.
[22] **Q:** — cocaine?
[23] **A:** Yes.
[24] **Q:** And would you agree with me that
[25] as an officer, a police officer, it's your

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F. Fiorillo

[1] obligation under the law that if you witness
[2] a felony, such as the sale of narcotics, you
[3] are required to make the arrest?
[4] **A:** Yes.
[5] **Q:** Would you also agree with me that
[6] when you witnessed Mitch Burns engaged in a
[7] drug transaction involving cocaine, you
[8] declined to arrest him?
[9] **A:** I didn't know if he was selling
[10] cocaine.
[11] **Q:** Well, okay.
[12] **A:** I didn't test it. In other
[13] words —
[14] **Q:** You didn't even get it?
[15] **A:** Right. So I couldn't even — I
[16] couldn't tell the truth that it was cocaine.
[17] **Q:** Okay. Isn't it true, sir, that
[18] Mr. Hesse, according to your — well,
[19] withdrawn. Sir, according to your
[20] testimony, Mr. Hesse ordered you to
[21] disregard the law when it came to Mitch
[22] Burns and turn the other way, correct?
[23] **A:** Yes.
[24] **Q:** And in 171, you allege that you

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F. Fiorillo

[1] refused to violate the law, do you see that?
[2] **A:** Yes.
[3] **Q:** Isn't it true that at least with
[4] regard to Mr. Burns, according to your
[5] testimony, you agreed with Mr. Hesse to
[6] violate the law with regard to Mitch Burns'
[7] conduct?
[8] **A:** Well, I didn't violate the law
[9] because I didn't know — actually, I didn't
[10] know what he was selling, so technically,
[11] was the law broken? I don't know because I
[12] don't know if in fact what appeared to be a
[13] drug transaction to me, I didn't — I didn't
[14] have the possession, I didn't test it, I
[15] didn't pursue it.
[16] **Q:** Let me ask you a question. Had
[17] Mr. Hesse, according to you, not given you
[18] that direction, would you have apprehended
[19] Mr. Burns and placed him under arrest?
[20] **A:** Well, I would have had to see —
[21] **MR. GOODSTADT:** Objection.
[22] **A:** I would have to further
[23] investigate the scene.
[24] **Q:** What would have you done to

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F. Fiorillo

[1] further investigate the scene?
[2] **MR. GOODSTADT:** Objection.
[3] **A:** Well, I would have had to search.
[4] **Q:** Did you believe you had probable
[5] cause to search him?
[6] **A:** At that time?
[7] **Q:** That's all I'm asking. Your
[8] opinion.
[9] **A:** My opinion, I probably did.
[10] **Q:** Okay. And given that you believe
[11] you had probable cause to invest — to
[12] search Mr. Burns, your practice would have
[13] been to search Mr. Burns, right?
[14] **A:** Yes.
[15] **Q:** And had you found, um, narcotics
[16] on Mr. Burns — well, would you have also
[17] searched the other person?
[18] **MR. GOODSTADT:** Objection.
[19] **A:** Oh yeah.
[20] **Q:** Had you found — had you searched
[21] him and you got possession of the bag with
[22] the substance in it, what would you have
[23] done next?
[24] **MR. GOODSTADT:** Objection.
[25]

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F. Fiorillo

[1]
[2] **A:** I would have had to take him down
[3] to the station and then we have a test kit.
[4] **Q:** Right.
[5] **A:** Test it to confirm.
[6] **Q:** Okay. And that would have
[7] been —
[8] **A:** Grounds to arrest him.
[9] **Q:** If there was narcotics?
[10] **A:** Correct.
[11] **Q:** And you did none of that?
[12] **A:** No.
[13] **Q:** So would you agree with me that
[14] you — rather than refusing to violate the
[15] law and regulations, you, in fact, complied
[16] with Mr. Hesse's instructions to you not to
[17] do what your job and the regulations
[18] required, correct?
[19] **MR. GOODSTADT:** Objection.
[20] **A:** In that instance, yes.
[21] **Q:** So would you agree with me, sir,
[22] that you, in fact, violated the public
[23] policy of New York State —
[24] **MR. GOODSTADT:** Objection.
[25] **Q:** — by — by turning a blind eye

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F. Fiorillo

[1] to what you believed was probable cause of
[2] criminal activity?
[3] **MR. GOODSTADT:** Same objection.
[4] **A:** It would have to go — there
[5] would have to be a progression on that.
[6] Like, initially, I didn't know if it was
[7] cocaine. In other words, I would have to
[8] take the first step.
[9] **Q:** Not even talking about whether or
[10] not it was cocaine or not, sir, isn't it
[11] true that as with regard to Mr. Burns, you
[12] violated your obligation to — to act as a
[13] police officer and investigate what you
[14] believed to be a crime?
[15] **MR. GOODSTADT:** Objection.
[16] **A:** I followed Hesse's orders is what
[17] I did.
[18] **Q:** Okay. Now I appreciate the Nazi
[19] defense, but I'm asking you this, sir.
[20] Isn't it true that you violated your
[21] obligations as a police officer by not
[22] pursuing what you believed was a violation
[23] of the criminal laws of New York State with
[24] regard to Mitch Burns?
[25]

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F. Fiorillo

[1]
[2] **MR. GOODSTADT:** Objection. To
[3] analogize his statement to a Nazi
[4] defense is offensive.
[5] **A:** I don't know what that means, the
[6] Nazi defense.
[7] **Q:** Sir, isn't it true that you
[8] knowingly and intentionally acted in
[9] contradiction to your obligations as a
[10] police officer by not investigating what you
[11] believed to be a narcotics sale?
[12] **MR. GOODSTADT:** Objection.
[13] **A:** I'm not sure.
[14] **Q:** Let's go to page 39. Tell me
[15] when you're there. Are you there?
[16] **A:** Okay.
[17] **Q:** Page nine, paragraph 164, do you
[18] see where I'm referring to?
[19] **A:** Page 39.
[20] **Q:** Page 39, yes.
[21] **A:** Paragraph?
[22] **Q:** 39. I'm sorry, paragraph 164.
[23] **A:** Got it.
[24] **Q:** This is within the Tenth Cause of
[25] Action, do you see that?

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F. Fiorillo

[1]
[2] **A:** Yes.
[3] **Q:** Defamation per se Under State
[4] Law —
[5] **A:** Yes.
[6] **Q:** — do you see that? 164,
[7] "Defendants Hesse and OBPD published
[8] defamatory statements about Plaintiffs,
[9] including without limitation, assertions
[10] that," do you see where I'm at?
[11] **A:** Yes.
[12] **Q:** Let's go to A. "Plaintiffs
[13] were" — bless you — "Plaintiffs were
[14] dishonest men, 'rats' and rogue law
[15] enforcement officers (April 2, 2006)." What
[16] does the reference to "April 2, 2006" mean
[17] as it's used in paragraph 164A?
[18] **MR. GOODSTADT:** Objection.
[19] **A:** That reference is a reference
[20] that was made at the Ocean Beach department
[21] meeting.
[22] **Q:** Now were you present at the
[23] meeting?
[24] **A:** No.
[25] **Q:** Okay. And, in fact, if I recall

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[1] **F. Fiorillo**
[2] your testimony correctly, and tell me if I'm
[3] wrong, because I don't want to
[4] mischaracterize your testimony, all the
[5] officers — well, a number of officers were
[6] on Ocean Beach for the organizational
[7] meeting on April 2, 2006, correct?
[8] **A:** Correct.
[9] **Q:** And at some point in time, Hesse
[10] said that everyone should line up, right?
[11] **A:** Correct.
[12] **Q:** And — at the boathouse?
[13] **A:** Correct.
[14] **Q:** And then when you went to the
[15] boathouse, it was only you, Lamm, Carter and
[16] Nofi and nobody else?
[17] **A:** Correct.
[18] **Q:** Okay. Now where did you —
[19] where did you hear Hesse say go to the
[20] boathouse? Where were you standing when he
[21] said that?
[22] **A:** Where was I standing?
[23] **Q:** Yeah. When Hesse said "everyone
[24] to the boathouse"?
[25] **A:** I was pretty much right by the

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[1] **F. Fiorillo**
[2] boathouse. Right by the steps.
[3] **Q:** And were the other officers by
[4] the boathouse?
[5] **A:** Kind of spread out. Like, you
[6] know, in a — in a spread out area.
[7] **Q:** Okay. And when I say "other
[8] officers," I'm including those in addition
[9] to Lamm, Nofi and Carter, right?
[10] **A:** Yeah.
[11] **Q:** Okay.
[12] **A:** Well —
[13] **Q:** Okay. Go ahead. Tell me.
[14] **A:** Okay. When — when — I just
[15] want to get clear. When we were lining up,
[16] before we were lining up?
[17] **Q:** Yeah.
[18] **A:** Everybody was all spread out.
[19] **Q:** Okay.
[20] **A:** Then Hesse made a statement to
[21] line up at the boathouse and he was going to
[22] talk to everybody one at a time.
[23] **Q:** And —
[24] **A:** Then —
[25] **Q:** You proceeded to line up, right?

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[1] **F. Fiorillo**
[2] **A:** Then that's when one group went
[3] this way and —
[4] **Q:** Got it.
[5] **A:** — only four people were on line.
[6] **Q:** Okay. So you went into the
[7] boathouse, right?
[8] **A:** Yes.
[9] **Q:** What transpired next?
[10] **A:** I went in. I — Eddie — Eddie
[11] Carter went in first.
[12] **Q:** Um-hum.
[13] **A:** And I saw Eddie Carter's shield
[14] on the table.
[15] **Q:** Okay. Wait a minute.
[16] **A:** Where Hesse — Hesse was inside.
[17] He was at a table sitting down.
[18] **Q:** Did you see Eddie Carter leave
[19] the boathouse after he went in?
[20] **A:** Yeah, he came — he came out. He
[21] exited and I entered.
[22] **Q:** Did Eddie say anything to you as
[23] he was exiting and you were entering?
[24] **A:** Not a word.
[25] **Q:** Okay. So you went in?

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[1] **F. Fiorillo**
[2] **A:** So I went in.
[3] **Q:** And you saw Ed Carter's shield,
[4] right?
[5] **A:** (Indicating).
[6] **Q:** And what did Hesse say to you, if
[7] anything?
[8] **A:** Well, of course he did. He
[9] said —
[10] **Q:** Well, I have to say "if
[11] anything," or else your attorney may object.
[12] **A:** Okay. What he did was he said
[13] that "I'm letting you go for budget cuts."
[14] **Q:** Okay.
[15] **A:** "So I need your firearm," so I
[16] had to make it safe. Took that. And then
[17] he needed my shield, my ID card and he took
[18] the jacket off my back.
[19] **Q:** And did he say anything else
[20] while you were in the boathouse?
[21] **A:** Yes, he did.
[22] **Q:** What did he say?
[23] **A:** He said, "Now that I'm taking
[24] over, it's not going to be like when Ed
[25] Paridiso was here. I'm going to make this a

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[1] *F. Fiorillo*

[2] kinder and gentler police department," and,

[3] um, and also, to addition to budgetary cuts,

[4] he said that, "You were one officer — you

[5] were one of the officers that wrote way too

[6] many summonses for my liking."

[7] Q: Okay. So if I understand your

[8] testimony correctly, in this boathouse

[9] meeting when you were told you were not

[10] going to be hired or terminated as you've

[11] said, Hesse gave you two reasons why you

[12] were being fired?

[13] A: Correct.

[14] Q: One, budgetary cuts?

[15] A: Correct.

[16] Q: And two, that you wrote too many

[17] summonses for his liking?

[18] A: Correct.

[19] Q: And he also said that he wanted a

[20] warmer and fuzzier —

[21] A: Gentler — gentler — kinder and

[22] gentler police department.

[23] Q: Okay. And did you ask him what

[24] he meant by that?

[25] A: No. I was — I was — I was

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[1] *F. Fiorillo*

[2] physically upset. I didn't even — I was —

[3] you know, it was very upsetting.

[4] Q: And did you say anything to Hesse

[5] in response to —

[6] A: No.

[7] Q: — anything he said to you?

[8] A: I was — I was beside myself. I

[9] couldn't believe what was happening.

[10] Q: So now if I understand your

[11] testimony correctly, Hesse said he wants a

[12] warmer and kinder —

[13] A: Kinder — kinder and gentler —

[14] Q: Right.

[15] A: — police department.

[16] Q: That you were being fired for

[17] budgetary — you were not being hired for

[18] budgetary cuts and that —

[19] A: I wrote too many summonses.

[20] Q: And that was the extent of the

[21] conversation?

[22] A: That's it.

[23] Q: And then you walked out?

[24] A: That's it. Well, I gave my

[25] shield and everything.

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[1] *F. Fiorillo*

[2] Q: Right.

[3] A: And he wanted — I was leaving

[4] and he goes, "I want the jacket." So I gave

[5] him the jacket off my back.

[6] Q: So you went back out. Who did

[7] you pass, if anybody, on your way out?

[8] Well, Carter had already —

[9] A: Well, there was only Joe and

[10] Kevin left.

[11] Q: Right. So you passed Joe and

[12] Kevin. Did you say anything to them on your

[13] way out?

[14] A: No.

[15] Q: Okay.

[16] A: Because, actually, as I was

[17] walking out, they were walking in.

[18] Q: Okay. Now where did you go from

[19] there?

[20] A: Oh, I'm sorry. One more thing.

[21] Q: Sure.

[22] A: If I could add. Hesse said that

[23] he made arrangements for a water taxi. "Ty

[24] Bacon's on the other side. He's going to

[25] come over with it, and then you guys can

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[1] *F. Fiorillo*

[2] leave the island." That's what he said.

[3] That was the last thing he said.

[4] Q: And where did you go from the

[5] boathouse?

[6] A: We went back to Bay Shore.

[7] Q: Well, did you wait — no —

[8] A: Oh, we had to wait for Ty Bacon

[9] to come over the bay.

[10] Q: Right.

[11] A: The water taxi was there, and by

[12] that time, Joe was fired and Kevin was

[13] fired.

[14] Q: So they met you where the water

[15] taxi was going to go? Well, let me ask

[16] you —

[17] A: Yeah. Yeah. We all walked to

[18] the water taxi, but not together.

[19] Q: Okay. Fine. So you didn't wait

[20] for Kevin and Joe?

[21] A: Well, we weren't running. You

[22] know what I mean?

[23] Q: Right.

[24] A: We were just — we walked to the

[25] water taxi.

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F. Fiorillo

[1]
[2] **Q:** Now what did Carter say to you
[3] about what Nof — what Hesse said to him?
[4] Well, withdrawn. Did Carter advise you
[5] before you got on that water taxi what Hesse
[6] had said to him?
[7] **A:** No. We were just talking about
[8] the whole aspect of what just happened, but
[9] not anything in particular.
[10] **Q:** Did Lamm advise you what Hesse
[11] said to him in the boathouse?
[12] **A:** Nobody did.
[13] **Q:** No one did?
[14] **A:** We weren't talking about anything
[15] that he said in particular. We just talked
[16] about what we just went through as far as
[17] going over there and what happened and how
[18] we left.
[19] **Q:** Okay. Now where, in your
[20] opinion, did Hesse call you a dishonest man
[21] on April 2, 2006?
[22] **A:** Well, we were told by Chris —
[23] well, "we" — Kevin had a communication with
[24] Chris Moran who was in the boathouse at the
[25] time of the meeting. Chris Moran was a

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F. Fiorillo

[1] dispatcher.
[2] **Q:** Okay.
[3] **A:** Okay? Follow me?
[4] **Q:** When you say "meeting," there was
[5] another meeting then?
[6] **A:** Our — our — our meeting was
[7] not a meeting.
[8] **Q:** Okay.
[9] **A:** Okay?
[10] **Q:** Got it.
[11] **A:** They had their meeting, the
[12] department meeting after we were fired.
[13] **Q:** Um-hum.
[14] **A:** That's the way it went. That was
[15] the progression.
[16] **Q:** Okay. Fine. So at this
[17] department meeting —
[18] **A:** Chris Moran was attending the
[19] meeting, okay, and he relayed back to Kevin
[20] what was said in the meeting.
[21] **Q:** And what did Chris tell Kevin?
[22] **A:** From what Kevin told me —
[23] **Q:** Right. Exactly.
[24] **A:** That Chris said, Chris said that

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F. Fiorillo

[1]
[2] he called us rats, and you know, he — Chris
[3] Moran said that, um — you want to know just
[4] what Hesse said?
[5] **Q:** Yeah. Because you're alleging
[6] that Hesse defamed you.
[7] **A:** Exactly.
[8] **Q:** Right.
[9] **A:** He said that we were the ones
[10] that were the problems in the police
[11] department and — Kevin would be the person
[12] to ask because he got it straight from
[13] Chris. I'm only paraphrasing.
[14] **Q:** Well, that's what I'm asking you.
[15] **A:** Yeah.
[16] **Q:** Now so —
[17] **A:** He said that we were mutts. We
[18] were the rats. We were the Civil Service
[19] rats.
[20] **Q:** Okay.
[21] **A:** Chris hasn't — you know, he was
[22] there.
[23] **Q:** Okay.
[24] **A:** He also told us what other
[25] members in the meeting did when Hesse told

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F. Fiorillo

[1] them that we were fired.
[2] **Q:** What did they do?
[3] **A:** Richie Bosetti said "it's about
[4] time" and he cheered. And Chris said that
[5] Richie said that Hesse should pay him for —
[6] I don't know how to — let me just think
[7] about this. Chris said that Richie said —
[8] let's see. Hesse said to Richie that he
[9] should pay him for what he just did.
[10] **Q:** Now what did Chris tell Kevin
[11] that Hesse said that leads you to the
[12] allegation that Hesse called you a dishonest
[13] man?
[14] **MR. GOODSTADT:** Objection.
[15] Other than what he's testified to?
[16] **Q:** Okay. Other than what you've
[17] testified to.
[18] **A:** Well, I can only tell you what —
[19] Kevin got it firsthand.
[20] **Q:** I understand that.
[21] **A:** So I'm only —
[22] **Q:** I'm asking what Kevin told you.
[23] **A:** From what I remember, this is
[24] what I remember.
[25]

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F. Fiorillo

[1]
[2] Q: Um-hum.
[3] A: That what I just said is
[4] basically what I remember.
[5] Q: Okay. What about B, "Plaintiffs
[6] had conspired to inculcate innocent police
[7] officers for acts of brutality against
[8] innocent citizens (April 2, 2006)." What
[9] does that mean, to the extent you know?
[10] A: This is what Hesse said, is this
[11] what you're telling me?
[12] Q: I'm asking you what is meant by
[13] subparagraph B, what I just read. I didn't
[14] write this. And if you don't know, then you
[15] don't know. That's — that's fine, too. "I
[16] don't know" is a legitimate answer.
[17] A: Well, Hesse blamed us for being
[18] the Civil Service rats in order to get all
[19] the uncertified officers removed from the
[20] police department.
[21] Q: Yeah, sir, but B doesn't refer to
[22] that. B refers to —
[23] MR. GOODSTADT: Yeah. You're
[24] looking at C.
[25] A: What is it, B?

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F. Fiorillo

[1]
[2] Q: B.
[3] A: Oh. I'm looking at C. I'm
[4] sorry.
[5] Q: Okay.
[6] A: Okay. Let's see. (Reviewing).
[7] Oh, okay. This had to do with the Halloween
[8] incident. How — how Hesse — Hesse blamed
[9] us for trying to, um, get basically Gary
[10] Bosetti fired from the — from the Halloween
[11] incident. Because he thought that we were
[12] conspiring against Gary Bosetti and Richie
[13] Bosetti, but Gary Bosetti because he was
[14] directly involved, and that was his
[15] allegation against us.
[16] Q: Now did Kevin Lamm tell you that
[17] Chris Moran said that George Hesse made
[18] comments about this issue on April 2, 2006?
[19] A: You'll have to ask Kevin. I
[20] don't remember.
[21] Q: That's perfect. With regard to
[22] C, did Kevin Lamm tell you that Chris Moran
[23] told him that Hesse made references in that
[24] organizational meeting to what's set forth
[25] in paragraph — in subparagraph C?

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F. Fiorillo

[1]
[2] A: Kevin said they talked about —
[3] they talked about that at the meeting, so.
[4] Q: But you don't know
[5] specifically — do you recall specifically
[6] what Lamm said Moran told him?
[7] A: Not specifically.
[8] Q: Okay. Let's look at E, because I
[9] don't think you — I need to talk to you
[10] about Kevin Lamm being a loser. E says "by
[11] repeatedly advising prospective employees
[12] that he had terminated Plaintiffs for cause,
[13] that Plaintiffs were litigious and that he
[14] could not comment favorably on Plaintiffs'
[15] performance as police officers," do you see
[16] that?
[17] A: This is C?
[18] Q: This is E.
[19] A: E?
[20] Q: Yeah.
[21] A: Wait a second.
[22] Q: 164E at the bottom. D talks
[23] about Kevin Lamm being a loser.
[24] A: Oh, okay. It looks like C.
[25] Okay. I got it. I got it (reviewing).

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F. Fiorillo

[1]
[2] Well, this has to do with the meeting in
[3] Ocean Beach?
[4] Q: Sir, I didn't write this.
[5] A: No. You would — okay.
[6] Q: Do you see what was written in E?
[7] A: (Reviewing).
[8] Q: Tell me when you're done reading
[9] E.
[10] A: Okay. (Reviewing). Well, this
[11] has to do with the job applications.
[12] Q: Yeah. I just wanted you to tell
[13] me when you were done with E?
[14] A: Okay.
[15] Q: Now my question to you, sir, is
[16] which — which entity for which you
[17] submitted an application for, did Hesse
[18] advise that you were terminated for cause?
[19] A: Well, I would think Southampton
[20] Town.
[21] Q: And that's based upon what you've
[22] testified to concerning what Mr. Foster told
[23] you?
[24] A: Yes.
[25] Q: We don't need to go over that

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F. Fiorillo

[1]
[2] again, do we?
[3] A: No.
[4] Q: Nothing you want to add to that
[5] about what Foster said?
[6] A: I mean, that was the sum and
[7] substance of the conversation.
[8] Q: Perfect. Any other entity that
[9] you claim Hesse advised that you were
[10] terminated for cause?
[11] A: Well, I don't know the — I don't
[12] know if there was. There could have been.
[13] Q: But you don't know?
[14] A: Based on what happened with
[15] Southampton Town, I would say there's a good
[16] possibility that might have happened.
[17] Q: But you don't know?
[18] A: I don't know.
[19] Q: Great. What entity did Mr. Hesse
[20] say — what entity concerning an application
[21] that you made did Hesse advise that you were
[22] litigious?
[23] A: I don't think that had to do with
[24] me.
[25] Q: Okay. What entity did Hesse —

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F. Fiorillo

[1] A: It could — it could have —
[2] let's see. I'm trying to think.
[3] Q: That you know. Not that it could
[4] have happened. That you know.
[5] A: Well, it basically stopped me
[6] from applying for Collier County because
[7] Mr. Donahoe said that the reference that he
[8] got from Hesse is that Joe was suing the
[9] department.
[10] Q: So Donahoe — Donahoe told you
[11] that, is that your testimony, because I
[12] don't think you said that the last time?
[13] A: No. Donahoe didn't tell me that.
[14] Q: Oh, okay.
[15] A: No.
[16] Q: Donahoe told Nofi and Nofi told
[17] you?
[18] A: Yeah.
[19] Q: Okay. That's your testimony.
[20] A: Because Donahoe called Chief
[21] Paridiso.
[22] Q: Oh. And what — what did Nofi
[23] tell you that Donahoe said about Chief
[24] Paridiso?
[25]

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F. Fiorillo

[1]
[2] A: No. Chief — Donahoe called
[3] Chief Paridiso.
[4] Q: Right.
[5] A: And talked to the chief about
[6] Joe.
[7] Q: Right.
[8] A: And Donahoe told Chief Paridiso
[9] that Hesse gave Donahoe a very bad reference
[10] about Joe, and Donahoe told the chief that
[11] Joe was suing the department.
[12] Q: Okay.
[13] A: So the chief notified Joe.
[14] Q: Got it. So at least according to
[15] Nofi, Donahoe had reached out to Paridiso?
[16] A: To Hesse first.
[17] Q: At least according to Nofi, sir,
[18] Donahoe had reached out to Paridiso
[19] concerning Nofi's application, right?
[20] A: Yes.
[21] Q: So my question to you is very
[22] simple, sir. What law enforcement agency do
[23] you contend that Hesse, as it relates solely
[24] to you, said that you were litigious?
[25] A: Um, I don't know.

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F. Fiorillo

[1] Q: Okay. Let's go to the next page,
[2] same cause of action, paragraph 168. What
[3] mental — well, 168 refers to you suffering
[4] severe mental anguish and pain, do you see
[5] that?
[6] A: Yes.
[7] Q: What severe mental anguish and
[8] pain have you suffered as a result of what
[9] you allege Chief Hesse and the OBPB did as
[10] set forth in 164?
[11] A: Well, it was — I suffered
[12] severe mental anguish ever since April 2,
[13] 2006 until today. I'm still going through
[14] it.
[15] Q: Describe your severe mental
[16] anguish for me and pain.
[17] A: Look at me. Am I happy? I'm a
[18] fired police officer who couldn't get a
[19] police officer job since then.
[20] Q: I don't know if you're happy,
[21] sir. I'm asking you to describe your severe
[22] mental anguish and pain.
[23] A: Well, my mental anguish is that
[24] I'm always constantly thinking about that
[25]

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[1] *F. Fiorillo*
[2] day. It's in my mind. It pains me.
[3] Q: Have you sought —
[4] A: It affected me.
[5] Q: Are you finished?
[6] A: No, I'm not finished.
[7] Q: Then keep going.
[8] A: My — my mental anguish is that I
[9] had to tell my son, okay, that I was fired
[10] as a police officer, okay? You know what
[11] that's like?
[12] Q: How old is your son?
[13] A: 23.
[14] Q: How old was he when you had to
[15] tell him that you were fired as a police
[16] officer?
[17] A: 20. Well, yeah.
[18] Q: Okay.
[19] A: But — but still, age has nothing
[20] to do with it.
[21] Q: Okay. Have you —
[22] A: It's just that he looked up —
[23] you know, he looked up to me, okay? I — I
[24] worked full time. I went through a police
[25] academy for seven months. It was — it was

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[1] *F. Fiorillo*
[2] something that I showed him if you try hard,
[3] you can just about do anything you want if
[4] you really try.
[5] Q: You worked full time for Ocean
[6] Beach?
[7] A: No. I worked full time for
[8] another company while I went through the
[9] academy.
[10] Q: Okay. Now have you sought the
[11] assistance of any medical professional with
[12] regard to your alleged severe mental anguish
[13] and pain?
[14] A: No. I don't even have health
[15] insurance.
[16] Q: Have you sought the advice of a
[17] priest or rabbi or any religious leader with
[18] regard to your severe mental anguish and
[19] pain?
[20] A: It's funny you should say that.
[21] I was thinking about that yesterday. God's
[22] honest truth.
[23] Q: Going to a rabbi?
[24] A: No.
[25] Q: Priest?

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[1] *F. Fiorillo*
[2] A: Priest.
[3] Q: Well, have you?
[4] A: Well, I was thinking about it
[5] yesterday because I'm just — I'm so
[6] distraught over what I'm going through right
[7] now, you can't — you can't even begin to
[8] imagine what I'm going through.
[9] Q: So have you?
[10] A: I haven't as of today.
[11] Q: Okay. What indignity have you
[12] suffered as a result of the defamatory
[13] comments you say Hesse and the police
[14] department published?
[15] A: Well, they published a blog,
[16] okay?
[17] Q: Who did?
[18] A: The Ocean Beach Police
[19] Department.
[20] Q: They actually have a blog under
[21] the title —
[22] A: Ocean Beach — it's — it's
[23] under — it's in the Schwartz Report on Long
[24] Island Politics.
[25] Q: Okay.

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[1] *F. Fiorillo*
[2] A: And they have a blog in police
[3] issues.
[4] Q: So, when you say the police
[5] department posted a blog, there is not a —
[6] a blog created by the Ocean Beach Police
[7] Department, this was a different website in
[8] which people could blog certain entries,
[9] right, the Schwartz Report?
[10] A: No. No. No. In other words,
[11] the police department could have started the
[12] blog, okay? I don't know who started the
[13] blog.
[14] Q: Oh, okay. That — that's fine.
[15] So when you referred to the blog being
[16] created by the Ocean Beach Police
[17] Department, you don't really know if they
[18] did that or not?
[19] MR. GOODSTADT: Objection.
[20] A: Well, according to — according
[21] to, um, according to Tommy Snyder who had a
[22] meeting with George Hesse at the police
[23] station after he was fired, because he got
[24] fired subsequent to us getting fired —
[25] Q: Okay.

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F. Fiorillo

[1]
[2] **A:** He had a meeting with George
[3] Hesse, and they were discussing the blog,
[4] and George Hesse told Tommy Snyder that it
[5] was the police department that was blogging
[6] and Ty Bacon was one of the police officers
[7] in the department that was doing a lot of
[8] it.
[9] **Q:** Okay. So this is not Hesse
[10] telling you, this is Snyder telling you that
[11] Hesse told him?
[12] **A:** This is — when Snyder had a
[13] meeting with Hesse, Hesse told Snyder about
[14] them blogging at the police department.
[15] **Q:** And have you ever looked at the
[16] blog?
[17] **A:** Yes.
[18] **Q:** Can you identify by name — well,
[19] does any name appear on the blog identifying
[20] the person writing it?
[21] **MR. GOODSTADT:** Objection.
[22] **A:** Is there any name identifying the
[23] person?
[24] **Q:** Yeah. For instance, does it
[25] say —

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F. Fiorillo

[1]
[2] **A:** It has —
[3] **Q:** Does it say "written by Ty
[4] Bacon"?
[5] **A:** No. But it has code words,
[6] numbers, such and such. You know.
[7] **Q:** So based upon code words and
[8] numbers, you presume —
[9] **A:** No. No. I'm not presuming
[10] anything.
[11] **Q:** — you can identify who wrote it?
[12] **MR. GOODSTADT:** Objection.
[13] **A:** Well, um, we can pick some out
[14] and have a pretty good idea of — of who —
[15] who would write whatever blog that was
[16] posted.
[17] **Q:** But you can't tell from the
[18] posting with — with 100 degree certainty —
[19] **A:** No.
[20] **Q:** — who wrote it?
[21] **A:** No.
[22] **Q:** Right. And did you ever write a
[23] blog?
[24] **A:** No.
[25] **Q:** Now you raised the issue with the

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F. Fiorillo

[1]
[2] health insurance. Did you have health
[3] insurance when you worked for the Village?
[4] **A:** Ocean Beach?
[5] **Q:** Yeah.
[6] **A:** No.
[7] **Q:** Okay. So the fact that you don't
[8] have any health insurance isn't — isn't
[9] related in any degree to your loss of the
[10] job at Ocean Beach, was it?
[11] **A:** No. But you asked me if I was
[12] seeking any medical —
[13] **Q:** I understand.
[14] **A:** — professional. That kind of
[15] thing.
[16] **Q:** And have you been diagnosed with
[17] any mental disease or defect in conjunction
[18] with your alleged severe mental anguish and
[19] pain?
[20] **A:** I haven't gone to anybody.
[21] **Q:** So you haven't been diagnosed?
[22] **A:** Exactly.
[23] **Q:** Let's look at the Eighth Cause of
[24] Action, "New York Civil Service Law 75-B"
[25] which is on page 37.

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F. Fiorillo

[1]
[2] **A:** (Reviewing).
[3] **Q:** Now in paragraph 155, which is
[4] the bottom of 37, you've alleged as follows,
[5] "Defendants' termination of Plaintiffs'
[6] employment was a 'adverse personnel action'
[7] taken in violation of New York Civil Service
[8] Law 75-B on the sole basis that Plaintiffs
[9] each disclosed what they reasonably believed
[10] to be 'improper governmental action' as that
[11] term is defined in New York Civil Service
[12] Law 75-B." What improper governmental
[13] action, other than what you've already
[14] testified today, do you allege that you
[15] complained about?
[16] **MR. GOODSTADT:** Objection.
[17] **A:** I think this is a legal question
[18] that I don't know what the legal — legality
[19] of it is of New York Civil Service Law 75-B.
[20] **Q:** I'm not asking you about the
[21] legality of that. There's a phrase used,
[22] "improper governmental action."
[23] **MR. GOODSTADT:** Which is
[24] defined in the statute.
[25] **Q:** What, in your opinion, did you

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[1] *F. Fiorillo*

[2] disclose that you characterize as "improper

[3] governmental action"?

[4] **MR. GOODSTADT:** Objection.

[5] **Q:** Other than what you've testified

[6] today?

[7] **A:** We feel that —

[8] **Q:** Not "we."

[9] **A:** Me. I feel —

[10] **Q:** Okay.

[11] **A:** — that Ocean Beach and Civil

[12] Service, um, handled the situation

[13] improperly, and if it was handled properly,

[14] I don't think we would be sitting here at

[15] this table today. That's my opinion.

[16] **Q:** Let me just see the answer.

[17] (Reviewing). So you're referring to the

[18] certification qualification issue?

[19] **A:** I'm referring to the

[20] certification qualification issue because

[21] that was ultimately what got us fired, in

[22] my — in my opinion.

[23] **Q:** Really? Your complaints about

[24] that?

[25] **A:** Yeah, my complaints about that.

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[1] *F. Fiorillo*

[2] **Q:** And just again, when did you

[3] first start complaining about that issue?

[4] **A:** It was — well, it wasn't so

[5] much me complaining about the issues. It

[6] was the longevity of the police officer —

[7] or the civilians working as police officers

[8] for a prolonged period of time that caused

[9] us to be fired, because if — I got to tell

[10] you, if the Bosettis were not certified,

[11] okay, they shouldn't have been working in

[12] Ocean Beach. That Halloween fight would

[13] have never happened and we would have had

[14] our jobs. So it stems — it's like a

[15] domino effect that — that uncertified

[16] personnel in Ocean Beach.

[17] **Q:** Okay.

[18] **A:** It affected us that way.

[19] **Q:** Just so I'm clear, did you ever

[20] complain to the Civil Service Department of

[21] Suffolk County with regard to the issue

[22] concerning uncertified, unqualified officers

[23] working there?

[24] **A:** I didn't have to complain. Ocean

[25] Beach knew about it. It was well known.

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[1] *F. Fiorillo*

[2] **Q:** I'm asking did you ever complain?

[3] **A:** Well, I didn't — no. Sorry.

[4] **Q:** Did you ever complain to the

[5] Suffolk County District Attorney's office on

[6] this issue specifically?

[7] **A:** Afterwards.

[8] **Q:** Yeah. I'm talking before the

[9] last day of your employment?

[10] **A:** No.

[11] **Q:** Did you ever complain to the

[12] Village board?

[13] **A:** No.

[14] **Q:** Did you ever complain to

[15] Loeffler?

[16] **A:** What do you mean, before or

[17] after?

[18] **Q:** Always before April 2.

[19] **A:** Well, my testimony represents

[20] what —

[21] **Q:** Okay. That's fine. And you

[22] certainly never complained to a media outlet

[23] about this?

[24] **A:** No.

[25] **Q:** Okay. Now let's go to a — how

Page 398

[1] *F. Fiorillo*

[2] much time do I have left?

[3] **THE VIDEOGRAPHER:** 15.

[4] **MR. NOVIKOFF:** 15? I think —

[5] I think I can get it done in 15.

[6] **MS. ZWILLING:** I'm still going

[7] to have a few questions.

[8] **MR. NOVIKOFF:** Oh, yeah. Yeah.

[9] I'm going to try to get through the

[10] rest of this stuff pretty quickly.

[11] **Q:** Turn to page — let's see —

[12] paragraph 58, which is on page 15, you write

[13] in paragraph 58 that "in yet another example

[14] of corruption at the OBPD in early September

[15] 2004, Officers Dyer and Fiorillo witnessed

[16] Officer Richard Bosetti plying an alleged

[17] domestic abuse victim with alcohol. Officer

[18] Dyer explained to Officers Snyder and

[19] Bockelman that Bosetti was "trying to talk

[20] (the victim) out of filing a domestic

[21] incident report," do you see that?

[22] **A:** Yes. Yes, I do.

[23] **Q:** Now what did you mean by

[24] "plying"?

[25] **A:** By — excuse me?

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F. Fiorillo

[1]
[2] Q: By the use of the word "plying,"
[3] P-L-Y-I-N-G, what did you mean?
[4] MR. GOODSTADT: Objection.
[5] A: Well, he was — he was actually
[6] feeding her, um, wine.
[7] Q: How many glasses?
[8] A: One glass that I saw when I was
[9] there.
[10] Q: How big was the glass?
[11] A: It was a cup. (Indicating). It
[12] wasn't —
[13] Q: And did she drink the whole cup?
[14] A: I don't know if she drank the
[15] whole cup, but she was definitely drinking.
[16] Q: Do you know how much of the cup
[17] she drank?
[18] A: At least half.
[19] Q: Okay. How many ounces?
[20] A: It was about a 12 ounce cup.
[21] Q: And he filled it to the top?
[22] A: No. It wasn't to the top.
[23] Q: Okay.
[24] A: It was about three quarters
[25] actually.

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F. Fiorillo

[1]
[2] Q: And did this violate any
[3] regulation or procedure as an officer of
[4] Ocean Beach, that you're aware of?
[5] A: Well, first of all, this — this
[6] person was beaten up by her boyfriend and
[7] he's feeding her wine? He's — he actually
[8] got wine for her to drink to try to calm her
[9] down.
[10] Q: Okay. So Mr. Bosetti got wine —
[11] A: He didn't call — he's giving her
[12] wine instead of calling for rescue.
[13] Q: As you say, to try to calm her
[14] down, right?
[15] A: Well, calm her down or —
[16] Q: Well, what made you say that he
[17] did it to calm her down?
[18] A: That's what I'm saying. I don't
[19] know what he did it for.
[20] Q: Okay.
[21] A: I mean, she was — she was
[22] distraught.
[23] Q: Okay. I'll accept what you said,
[24] that, in your opinion, he was giving her
[25] wine to calm her down. Here's my question,

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F. Fiorillo

[1]
[2] sir, is that proper police procedure?
[3] A: No.
[4] Q: And did he — did the victim
[5] ever file a report, to your knowledge?
[6] A: Well, ultimately, the boyfriend
[7] was arrested shortly thereafter.
[8] Q: Okay. So presumably she filed a
[9] report, right?
[10] A: Yeah. I wasn't on this call as
[11] far as the field report.
[12] Q: Okay.
[13] A: So.
[14] Q: And it wasn't proper procedure to
[15] give a victim wine as you state. My
[16] question, sir, did you complain to George
[17] Hesse about this?
[18] A: No. The chief knew about it.
[19] Q: How did the chief know about it?
[20] A: He was right there in the morning
[21] when we went to arrest her boyfriend.
[22] Q: Did you tell the chief what
[23] Bosetti did?
[24] A: Yes. He knew.
[25] Q: Well, I'm asking you, did you

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F. Fiorillo

[1]
[2] tell the chief?
[3] A: Yes. Yes.
[4] Q: So this is another example where
[5] you bypassed Mr. Hesse and you told
[6] Mr. Paridiso?
[7] A: Mr. Hesse wasn't there.
[8] Q: I understand that. But Mr. Hesse
[9] was your immediate superior, wasn't he?
[10] A: Yeah, but the chief —
[11] Q: Was Mr. Hesse your immediate
[12] superior?
[13] A: When he was working there. But
[14] he wasn't working there. That's what I'm
[15] trying to say. The chief was the supervisor
[16] in the morning.
[17] Q: And what did you say to
[18] Mr. Paridiso?
[19] A: That Richie Bosetti was —
[20] offered, um, Lisa Campbell a cup of wine and
[21] she was drinking wine in the station.
[22] Q: And what did Mr. Paridiso say?
[23] A: He said he was going to take that
[24] up with Richie Bosetti.
[25] Q: Okay. Well, turn to 159, sir,

Page 403

[1] *F. Fiorillo*

[2] paragraph — on page 38.

[3] A: Right.

[4] Q: Here you state with regard to all

[5] of the issues in 158, that "Plaintiffs

[6] repeatedly notified Hesse, their superior

[7] and directed supervisor, of these violations

[8] of laws, rules and regulations," do you see

[9] that?

[10] A: Where are we?

[11] Q: 158 at the bottom.

[12] A: Wait. What page?

[13] Q: On page 38.

[14] A: Okay. But he wasn't working that

[15] night.

[16] Q: Sir, I'm just looking at 159

[17] right now. You've alleged —

[18] A: But this is in reference to what

[19] you —

[20] Q: Sir, you write, "Plaintiffs

[21] repeatedly notified Hesse, their superior

[22] and direct superior, of these violations of

[23] laws, rules and regulations," do you see

[24] that?

[25] A: But this —

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[1] *F. Fiorillo*

[2] Q: Yes or no, do you see that?

[3] A: I see that.

[4] Q: You don't mention Paridiso there,

[5] right? Yes or no?

[6] A: I have an explanation.

[7] Q: You don't —

[8] A: I don't.

[9] Q: And you don't qualify this by

[10] saying only when Hesse was on duty, do you?

[11] A: No. Because when I was working,

[12] Hesse wasn't working. I was working on

[13] the — on the chief's tour.

[14] Q: All the time?

[15] A: Almost all the time.

[16] Q: Okay. So then 159 wouldn't

[17] really apply to you?

[18] A: Well, that's what I was trying —

[19] that's why I wanted to explain that to you.

[20] Q: So 159 would not really apply to

[21] you?

[22] A: Generally, almost — almost

[23] never. Only on certain instances.

[24] Instances when I worked maybe four hours or

[25] five hours on an overlap shift.

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[1] *F. Fiorillo*

[2] MR. GOODSTADT: Just so we're

[3] clear what he's answering to, what part

[4] of 159? The fact that he repeatedly

[5] notified Hesse or the fact that Hesse

[6] was his superior and direct supervisor?

[7] MR. NOVIKOFF: I asked the

[8] question and I think it was clear.

[9] MR. GOODSTADT: I don't think

[10] it's clear.

[11] A: For the most part, the chief was

[12] my supervisor because I worked his tour.

[13] Q: Okay. Then let's go on to

[14] paragraph 36. You allege in paragraph 36

[15] that —

[16] A: Paragraph 36?

[17] Q: Yeah. On page nine.

[18] A: Hold on.

[19] Q: Did you ever complain to Hesse

[20] about leaving the Village dangerously short

[21] of personnel?

[22] MR. GOODSTADT: Let him get to

[23] the paragraph.

[24] MR. NOVIKOFF: Okay. You got

[25] it.

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[1] *F. Fiorillo*

[2] A: Yes. When we — when we had to

[3] take — as I said before in my testimony,

[4] when we had to take the, um, officers from

[5] Ocean Beach to the checkpoint.

[6] Q: Okay. So you've testified about

[7] that already I think?

[8] A: Yeah.

[9] Q: Okay. And did you complain to

[10] Paridiso about that as well?

[11] A: Yes.

[12] Q: And when was the first time that

[13] you remember complaining to Hesse about

[14] this?

[15] A: When — there was one night in

[16] particular where Walter Muller was —

[17] Q: I'm just asking you about the

[18] year, sir.

[19] A: Oh, the year? I would say that

[20] might have been 2000 —

[21] Q: The first time that you

[22] complained.

[23] A: That was probably 2003 with

[24] Walter Muller.

[25] Q: Okay. Now in — did you ever

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F. Fiorillo

[1]
[2] chauffeur George Hesse to, um, a sexual
[3] encounter?
[4] A: Yes, I did.
[5] Q: When?
[6] A: In 2004.
[7] Q: And how do you know it was a
[8] sexual encounter?
[9] A: Because he told me about it.
[10] Q: What did he ask you to do?
[11] A: He told me to take him to Andrea
[12] Nimberger's house on Wilmot Road.
[13] Q: That's on — in the Village?
[14] A: In the Village of Ocean Beach.
[15] Q: Was he on duty at the time?
[16] A: Yes.
[17] Q: And did you — is that proper
[18] procedure for an on duty police officer to
[19] go to a resident's home and have sex with
[20] them?
[21] A: I don't think so.
[22] Q: He told you he was having sex?
[23] A: Yes. He bragged about it.
[24] Q: And did you tell Chief Paradiso
[25] about this?

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F. Fiorillo

[1] A: No.
[2] Q: Did you tell anyone about this?
[3] A: No.
[4] Q: Why not?
[5] A: Well, to be honest with you, I
[6] think if I told anybody about it, I was
[7] going to — my job would be in jeopardy.
[8] Q: Did he say to you "if you tell
[9] anyone about this, you're fired"?
[10] A: No. But —
[11] Q: Yes or no?
[12] A: George Hesse has a — no.
[13] Q: Okay. Let's look at paragraph
[14] 61. When did Mr. Hesse order you to spend
[15] three consecutive shifts standing motionless
[16] beneath a streetlight at the intersection of
[17] Dehnhoff Walk and Bay Walk?
[18] A: Hold on a second. Page 16?
[19] Q: Page 16.
[20] A: Okay. This was the — this was
[21] in conjunction with the filing cabinet
[22] incident in the bay. There was a sequence
[23] of events that happened. The filing cabinet
[24] was thrown in the bay. I didn't help Richie

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F. Fiorillo

[1] Bosetti get it out of the bay.
[2] Q: Um-hum.
[3] A: I came back to work that night.
[4] I was working an eight — eight to eight.
[5] Q: Okay.
[6] A: Okay? 8:00 at night to 8:00 the
[7] next morning. And it was about 20 after
[8] seven. We were — "we" meaning myself,
[9] George Hesse, Paul Corallo and John Dyer —
[10] were in the police vehicle going to Ocean
[11] Beach to go on duty. And he instructed me
[12] that when we got back to the station, he
[13] wanted me to clean the truck.
[14] Q: Okay. Continue.
[15] A: So what —
[16] Q: Because I presume you said
[17] something that caused him to punish you?
[18] MR. GOODSTADT: Objection.
[19] Q: All right. Continue.
[20] A: Because what happened was we were
[21] on the — we were going on the beach to
[22] the — we were going through the cut on the
[23] beach going to Ocean Beach. So I said,
[24] "Wait a second." I said, "I just cleaned
[25]

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F. Fiorillo

[1] the station last night." I said, "Why don't
[2] you just spread it around." I said, "It's
[3] just not fair for me to — you know, I
[4] cleaned the station. I took everything up.
[5] The filing cabinet wound up in the bay and
[6] here I am you want me to clean the truck.
[7] The dock masters usually clean the truck."
[8] So what happened was he got
[9] offended with me because I voiced my opinion
[10] in front of Paul Corallo and John Dyer, and
[11] then not that night, but my next tour — my
[12] next three tours, he stuck me under the
[13] light and he said, "That's your post."
[14] Q: And you stood there motionless
[15] for your next three tours?
[16] A: I stayed there.
[17] Q: Yeah. But motionless?
[18] A: Just about motionless.
[19] Q: Like the guys from England in
[20] front of the Palace?
[21] A: Just like — almost like that.
[22] "Stand in that spot and don't move."
[23] Q: You didn't move at all?
[24] A: No.
[25]

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F. Fiorillo

[1]
[2] **Q:** You didn't go to the bathroom?
[3] **A:** No, I didn't go to the bathroom.
[4] **Q:** You didn't eat?
[5] **A:** Nope. Didn't eat.
[6] **Q:** He told you you couldn't go to
[7] the bathroom?
[8] **A:** He didn't tell me I couldn't go.
[9] He told me to stand there. I was afraid I
[10] was going to lose my job at this point. I
[11] did what I was told.
[12] **Q:** And what year was this?
[13] **A:** This was 2004.
[14] **Q:** Okay. During the season?
[15] **A:** Just before the — it was just
[16] when Paul Corallo and John Dyer came on as
[17] police officers.
[18] **Q:** And when was that, right before
[19] the season or right after the season?
[20] **A:** Well — well, I think it was
[21] Labor Day — Memorial Day weekend.
[22] **Q:** Perfect. Okay. Let's go to
[23] paragraph 86 which is on page 20. When —
[24] okay.
[25] **A:** Okay.

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F. Fiorillo

[1]
[2] **Q:** When did Hesse tell you that he
[3] thought Snyder's report made him sick?
[4] **A:** Okay. I got a phone call at home
[5] from George Hesse shortly after the
[6] Halloween fight, um, and what he said was he
[7] wanted me to go to — to write a statement,
[8] go to a Kinko's and fax him the statement.
[9] **Q:** Okay.
[10] **A:** So what I said was, "I got to go
[11] to work tonight. There's no way I can do
[12] it." He said, "Well, you got" — it was,
[13] you know, "I'm here" — he said, "I'm here
[14] 'til like 11:30, whatever it was." He said,
[15] "You got this much time to do it." I said,
[16] "It's impossible. I'm just not going to do
[17] it."
[18] So what happened was that next
[19] day, what I did was in between my stops — I
[20] used to work for a book company — so in
[21] between deliveries and stuff, I managed to
[22] hand write a statement based on the
[23] Halloween fight.
[24] **Q:** Okay.
[25] **A:** Because he needed my statement.

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F. Fiorillo

[1]
[2] **Q:** Okay.
[3] **A:** So what I did was when I got
[4] home, I called him up. I told him I had the
[5] statement. "What do you want me to do?" He
[6] said, "Meet me at the check — meet me at
[7] the checkpoint." And what I did was I sat
[8] in his truck. He had my statement. He
[9] showed me Tommy Snyder's statement.
[10] **Q:** Yeah.
[11] **A:** So he said, "Here, I want you to
[12] read this." So I read it. So what happened
[13] is he said, "This — this statement's no
[14] good." I said, "What do you mean?" He
[15] said, "Don't you see how Tommy's" — this
[16] is in reference to on page 20?
[17] **Q:** Yes. I know.
[18] **A:** Okay. Um, this is in reference
[19] to 81?
[20] **MR. GOODSTADT:** 86.
[21] **A:** Oh, 86. Okay. Yeah. Snyder's.
[22] That's right.
[23] **MR. GOODSTADT:** The question is
[24] when did he tell you it makes him sick.
[25] **A:** Right. Okay. I'm just getting

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F. Fiorillo

[1]
[2] my timeline — I gotta get my timeline
[3] straight. Okay. So I'm in his truck. I'm
[4] reading Tommy's statement. That was shortly
[5] thereafter the Halloween fight. The night
[6] that I gave him my statement.
[7] **Q:** Right. Okay.
[8] **A:** So what he said was — um, I was
[9] reading the statement. I read the whole
[10] thing. And he said, "What do you think?" I
[11] said, "Well, that's — that's what happened.
[12] That's pretty good — pretty accurate
[13] statement." So he said, "It's not." He
[14] said, "Can't you see how Tommy has it in for
[15] Gary Bosetti? See how he's implicating him
[16] in the fight?" I said, "George, he's not —
[17] if you read this, it doesn't — it doesn't
[18] say that."
[19] **Q:** Okay.
[20] **A:** All right?
[21] **Q:** So when did he say it made him
[22] sick?
[23] **A:** That's when he said it made him
[24] sick.
[25] **Q:** Okay.

Page 415

[1] *F. Fiorillo*
[2] **A:** He said — he grabbed it. He
[3] goes, "This statement makes me sick." He
[4] said it's — it was disgusting.
[5] **Q:** Okay.
[6] **A:** That's what he told me. And
[7] that's it.
[8] **Q:** Did George Hesse specifically
[9] ever use the word "cover up" with you with
[10] regard to anything involving the Halloween
[11] incident?
[12] **A:** Not with me.
[13] **MR. NOVIKOFF:** How much time
[14] left?
[15] **THE VIDEOGRAPHER:** One minute.
[16] **MR. NOVIKOFF:** Why don't we
[17] change tape and I'll see if I have
[18] anything else.
[19] **THE VIDEOGRAPHER:** This ends
[20] tape number six. The time is 6:02 p.m.
[21] Going off the record.
[22] (A break was taken.)
[23] **THE VIDEOGRAPHER:** This begins
[24] tape number seven. The time is 6:10
[25] p.m. Back on the record.

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[1] *F. Fiorillo*
[2] **Q:** Okay. Mr. Fiorillo, hopefully I
[3] will just have a few more questions, and
[4] they're basically regarding what's on page
[5] 17 of the Complaint. Just tell me when you
[6] get there.
[7] **A:** Okay.
[8] **Q:** Sir, I'm not going to ask you to
[9] read anything yet. Just — I don't know if
[10] I asked you this, at any point in time
[11] during the Halloween incident that you
[12] investigated, did you take any pictures of
[13] the bar in which the, um, the alleged
[14] incident took place?
[15] **A:** I didn't.
[16] **Q:** Did anyone, to your knowledge?
[17] **A:** Yes. Yes.
[18] **Q:** When I say "anyone," I mean
[19] Lamm —
[20] **A:** Pat Cherry.
[21] **Q:** No. During your initial
[22] investigation that night, did either you,
[23] Snyder or Lamm take pictures of the alleged
[24] crime scene?
[25] **A:** I don't know that because I — I

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[1] *F. Fiorillo*
[2] left the scene.
[3] **Q:** Are you aware, as you sit here
[4] today, as to whether Lamm or Snyder took
[5] pictures?
[6] **A:** I know pictures were taken of the
[7] bar.
[8] **Q:** Right. But do you know —
[9] **A:** I don't know who took them.
[10] **Q:** But you didn't?
[11] **A:** I didn't take them.
[12] **Q:** Okay. Let's look at 65. 65 says
[13] "During Officers Snyder, Fiorillo and Lamm's
[14] initial investigation of the incident,
[15] Officer Richard Bosetti, who was drinking
[16] with his brother Gary Bosetti at the
[17] Halloween party at Houser's Bar, told them
[18] that they 'did not understand' what had
[19] happened and then refused to answer further
[20] questions about either the incident or his
[21] brother, Officer Gary Bosetti's whereabouts,
[22] and also refused to assist in the
[23] investigation," do you see that?
[24] **A:** Yes.
[25] **Q:** Did you speak to Richard Bosetti

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[1] *F. Fiorillo*
[2] about what's alleged in paragraph 65 that
[3] night during your initial investigation
[4] during your first tour?
[5] **A:** I wasn't with Richie Bosetti.
[6] **Q:** So then the answer with regard to
[7] you is no?
[8] **A:** No.
[9] **Q:** Did — with regard to the
[10] acknowledgment in paragraph 65 that Gary
[11] Bosetti — that you didn't know what Gary
[12] Bosetti's whereabouts were, did you — were
[13] you discussing it with anybody with regard
[14] to the whereabouts of Mr. Bosetti that
[15] night?
[16] **A:** We had no idea where his
[17] whereabouts were.
[18] **Q:** Well, did you discuss with Lamm
[19] or with Snyder the fact that Gary Bosetti
[20] was still on the island, but you didn't know
[21] where his whereabouts were?
[22] **A:** We didn't know if he was still on
[23] the island.
[24] **Q:** Well, did you have any
[25] discussions with Lamm or Snyder during that

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F. Fiorillo

[1]
[2] morning, before the end of your first shift,
[3] as to where Gary Bosetti was?
[4] **A:** At this point in time, we didn't
[5] know that Gary Bosetti was involved in the
[6] fight. It was only when the — when the,
[7] um, one of the victims pointed him out when
[8] the chief was, um — it appeared to be that
[9] Gary Bosetti was the person in the fight.
[10] But we didn't know it.
[11] **Q:** Well, according to 65, as I read
[12] it, Richard Bosetti advised one of you guys,
[13] Snyder or Lamm or you, that Gary Bosetti was
[14] involved in the fight?
[15] **A:** Yeah. But we couldn't — okay.
[16] **Q:** Do you agree with me, that's
[17] how —
[18] **A:** Yes.
[19] **Q:** — it looks like —
[20] **A:** No. I follow you. I understand
[21] now.
[22] **Q:** Right. So if during the initial
[23] investigation before Chief Paridiso came on
[24] to the island —
[25] **A:** Okay.

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F. Fiorillo

[1]
[2] **Q:** — did you, Fiorillo, or Snyder
[3] have a conversation with Richard Bosetti
[4] about his brother being involved in the
[5] fight, my question to you is did either you,
[6] Snyder or Lamm have any discussions that
[7] evening about the whereabouts of Gary
[8] Bosetti, that you can recall? And if you
[9] can't recall, then you can't recall. That's
[10] fine.
[11] **A:** Let me just think of how — of
[12] how this happened. Okay. Tommy asked
[13] Richie, "Where's your brother?" That's what
[14] happened.
[15] **Q:** Okay.
[16] **A:** And Richie said he didn't know.
[17] **Q:** And was that in your presence?
[18] **A:** Yes. I heard that. That's why
[19] I'm telling you. I heard that.
[20] **Q:** And why did Tommy ask Richie that
[21] question, to the best of your understanding?
[22] **A:** Because from what Tommy told me
[23] later on, Richie said that Gary was the one
[24] who was involved in the fight. So then I
[25] said, "Well, if Gary was involved in the

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F. Fiorillo

[1]
[2] fight, then why did he leave the scene?"
[3] **Q:** Okay. And that was certainly
[4] before Paridiso came on?
[5] **A:** Yeah. Yeah. It was before.
[6] **Q:** So my question to you is, did any
[7] one of you try to call Gary Bosetti on his
[8] cell phone?
[9] **A:** I didn't — I didn't have his
[10] cell phone number.
[11] **Q:** Did you try to — did any one of
[12] you three try to inquire with Chief Paridiso
[13] as to Gary Bosetti's cell phone?
[14] **MR. GOODSTADT:** Objection.
[15] **A:** Well, the chief did call.
[16] **Q:** I mean during the evening, during
[17] the initial investigation that morning
[18] before Paridiso came on board?
[19] **A:** No.
[20] **Q:** Okay. Did any one of the three
[21] of you ask anyone where Gary Bosetti was
[22] sleeping that night?
[23] **A:** No.
[24] **Q:** Okay. Let's look at paragraph
[25] 66.

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F. Fiorillo

[1]
[2] **A:** Well, I can't say "no" to the
[3] last question because I wasn't at the
[4] station all the time. I — I don't know.
[5] **Q:** Let's go to paragraph 66. "In
[6] reaction to Officer Richard Bosetti's
[7] silence, the patrons who remained at
[8] Houser's Bar and had not fled the scene of
[9] the fight, raised concerns of a 'cover up'
[10] by the police department," do you see that?
[11] **A:** Yes.
[12] **Q:** Name me who these patrons are.
[13] **A:** It was the victims. Christopher
[14] Shalick. He's the one that blurted out that
[15] "you guys are going to cover it up."
[16] **Q:** Oh. So when in paragraph 66,
[17] you're referring to the patrons who remained
[18] at Houser's Bar and had not fled the scene
[19] of the fight, you're referring to
[20] Christopher Shalick?
[21] **A:** I heard him say that.
[22] **Q:** Are you referring to anybody
[23] else? I'm trying to understand, patrons to
[24] me —
[25] **A:** Well, he was a patron in the bar.

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F. Fiorillo

[1] *F. Fiorillo*
[2] Q: Okay.
[3] A: Well, I'm telling you what
[4] happened. I heard him say that to me.
[5] Q: So I'm —
[6] A: Not generally to me. But an
[7] outward statement.
[8] Q: Other than — other than
[9] Mr. Shalick, did any other patron who
[10] remained at the bar use the word "cover up"?
[11] MR. GOODSTADT: Objection.
[12] A: He was the only one that was —
[13] he was the only one that was very
[14] boisterous.
[15] Q: So the answer would be "no," no
[16] other patron, other than —
[17] A: Well, I wasn't — I wasn't in the
[18] bar.
[19] Q: Only in your presence, sir.
[20] A: Okay.
[21] Q: The only thing I'm asking you is
[22] in your presence.
[23] A: In my presence.
[24] Q: In your presence?
[25] A: He was the only one.

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F. Fiorillo

[1] *F. Fiorillo*
[2] Q: Was Mr. Shalick the only "patron"
[3] as that word is used in 66, that used the
[4] phrase "cover up"?
[5] A: As far as I know.
[6] Q: Okay. Now 66 says "Officer
[7] Snyder assured the patrons," do you see
[8] that?
[9] A: I think that's what he was
[10] referring to, because he was — he was
[11] speaking to them, and that's when Shalick
[12] blurted it out. I heard that.
[13] Q: So you heard Snyder assure the
[14] patrons that —
[15] A: That it was not going to be a
[16] cover up. I heard Tommy say that.
[17] Q: And how many patrons were left in
[18] the bar after the fight, to your knowledge?
[19] MR. GOODSTADT: Objection.
[20] A: I was outside. I didn't count
[21] the people inside. But there was — it was
[22] chaos. There was — there was people all
[23] over the place.
[24] Q: Okay. Did you, Lamm and Snyder
[25] have any discussions about taking the names

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F. Fiorillo

[1] *F. Fiorillo*
[2] of the witnesses that remained in the bar
[3] that night?
[4] A: Well, I tried getting witnesses
[5] outside the bar.
[6] Q: I'm only asking —
[7] A: And Kevin and Tommy were trying
[8] to do that inside the bar.
[9] Q: And neither you, Tommy or Kevin
[10] got any names of witnesses?
[11] A: Nobody would cooperate with us
[12] that night.
[13] Q: Okay. And paragraph 67, what is
[14] the name of the bartender that's referenced
[15] in paragraph — of the bouncer that was
[16] referenced in paragraph 67?
[17] A: 67? Shawn O'Rourke.
[18] MR. NOVIKOFF: Okay. Did
[19] you — withdrawn. I think I'm done.
[20] So whoever wants to go, can go.
[21] MS. ZWILLING: Okay. Do you
[22] want to go or —
[23] MR. CONNOLLY: I'll go first.
[24] Can I have your microphone?
[25] MR. NOVIKOFF: You got it.

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F. Fiorillo

**EXAMINATION BY
MR. CONNOLLY:**

[1] *F. Fiorillo*
[2] **EXAMINATION BY**
[3] **MR. CONNOLLY:**
[4] Q: Mr. Fiorillo, earlier today you
[5] testified that on the night of the Halloween
[6] incident, you spoke to Elyse Miller before
[7] the Halloween incident?
[8] A: Yes.
[9] Q: Okay. Where did you speak with
[10] her?
[11] A: She was in front of the station
[12] with Gary Bosetti and Richie Bosetti.
[13] Q: Okay. And what was the sum and
[14] substance of that conversation?
[15] A: She said that Gary drew something
[16] on her breast. Part of her Halloween
[17] costume.
[18] Q: And had you known Elyse Miller
[19] before that night?
[20] A: Yes. She was a, um, a what do
[21] you call it? Like a seasonal renter.
[22] Q: And you had known her for a
[23] couple of years?
[24] A: I've known her — yeah. At least
[25] two years that I've seen her around. I

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F. Fiorillo

[1]
[2] mean, she was always around the Village.
[3] Q: Um, can you give me some current
[4] pedigree information? Are you presently
[5] married?
[6] A: Oh, no. No.
[7] Q: Are you divorced?
[8] A: Yes.
[9] Q: Okay. Um, and you mentioned
[10] earlier you had a son?
[11] A: Yes, I do.
[12] Q: Do you have any other children?
[13] A: No.
[14] Q: Okay. And with whom, if anyone,
[15] do you presently reside?
[16] A: No one.
[17] Q: Okay.
[18] A: Just myself.
[19] Q: Are you presently employed?
[20] A: Yes.
[21] Q: By whom?
[22] A: The name of the company is
[23] People's Accident Information Service.
[24] Q: And what does that company do?
[25] A: Security.

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F. Fiorillo

[1] Q: And would you be a security guard
[2] with that company?
[3] A: Yes.
[4] Q: Okay. And where would you work?
[5] A: Wherever they send me.
[6] Q: Okay. It would depend upon the
[7] shift?
[8] A: It depends on the location.
[9] Like, um, they have different jobs in
[10] different locations.
[11] Q: And how long have you worked for
[12] People's?
[13] A: Um, I've worked there since I
[14] want to say July of 2007 or — or late June.
[15] Thereabouts.
[16] Q: And have you held any other
[17] employment?
[18] A: No.
[19] Q: Have you held any employment
[20] since April of 2006?
[21] A: Since April of 2006?
[22] Q: Right.
[23] A: That was the only job.
[24] Q: Since you filed — withdrawn.
[25]

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F. Fiorillo

[1]
[2] Since the Notice of Claim was filed in your
[3] behalf, have you had any conversations with
[4] Ed Paridiso?
[5] A: Yes.
[6] Q: Okay. On how many occasions have
[7] you spoken to Mr. Paridiso since that time?
[8] A: I would say when I asked him for
[9] the verification letter that I worked in
[10] Ocean Beach for the security guard license.
[11] For — I spoke to him when his, um, mother
[12] died. I spoke to him when his father died.
[13] And that's it.
[14] Q: On the two occasions you spoke to
[15] him on the death of his parents, did you
[16] discuss anything other than possibly
[17] expressing your sympathy?
[18] A: He wouldn't talk about — we —
[19] what we did was we had a — when I say "we,"
[20] um, Kevin, um, Joe — the five of us, we all
[21] went there to pay our respects, and we
[22] weren't talking about anything that had to
[23] do with Ocean Beach whatsoever.
[24] Q: And when you went there, you
[25] meant the wake?

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F. Fiorillo

[1] A: Yeah. At that time, it was just
[2] not a good time.
[3] Q: Earlier when you were testifying
[4] regarding the blog, you said something to
[5] the effect of "we thought we could tell who
[6] wrote the blogs." Who do you mean by "we"?
[7] MR. GOODSTADT: Objection.
[8] A: Well, "we" meaning who the blogs
[9] were directed to. Like Kevin, Tommy, Eddie,
[10] myself and Joe.
[11] Q: Okay. But when you say "we," are
[12] you referring to —
[13] A: Us.
[14] Q: The Plaintiffs?
[15] A: Yeah. Us.
[16] Q: Okay. And did you read the blogs
[17] together?
[18] A: No. Like in other words, you
[19] know, if — um, it was always separate.
[20] Q: Okay.
[21] A: Because we would talk on the
[22] phone.
[23] MR. CONNOLLY: I have no other
[24] questions. Thank you. Your witness.
[25]

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F. Fiorillo

EXAMINATION BY

MS. ZWILLING:

[1] MS. ZWILLING: I have just a
[2] few.

[3] Q: Did you post on the blogs?

[4] THE REPORTER: Hold on a
[5] second. We have to switch the mic
[6] over.

[7] Q: Did you post on the blogs?

[8] A: Never.

[9] MR. GOODSTADT: Objection.
[10] It's been asked and answered.

[11] A: Not even once.

[12] Q: Do you know if any of the other
[13] Plaintiffs did?

[14] A: Yes, I do.

[15] Q: Which ones posted on the blogs?

[16] A: Only one. One person that — in
[17] our group out of the Plaintiffs posted on
[18] the blog.

[19] Q: Who was that?

[20] A: Tommy Snyder.

[21] Q: Do you know what names he posted
[22] under when he posted on the blogs?

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F. Fiorillo

[1] A: Wow.

[2] MR. GOODSTADT: It's in the
[3] record already. Tommy Snyder testified
[4] to it.

[5] A: I don't know what name he used,
[6] but I know he posted.

[7] Q: When were you divorced?

[8] A: Officially, March 17 —
[9] St. Patrick's Day 1997.

[10] Q: Have you ever seen Alison Sanchez
[11] at any time, other than the other day at her
[12] deposition and when you met with her in her
[13] office at Civil Service?

[14] A: I saw her on Ocean Beach.

[15] Q: How many times did you see her in
[16] Ocean Beach?

[17] A: Once.

[18] Q: And when was that?

[19] A: Um, let's see. The year I think
[20] was I want to say 2005. She was going over
[21] the records with George Hesse on the, um —
[22] they had a lot of problems with Civil
[23] Service qualification exams with people who
[24] were not certified there and they were

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F. Fiorillo

[1] trying to get them certified and it was a
[2] mess.

[3] Q: Have you ever seen her at any —
[4] on any other occasion, other than those
[5] three times?

[6] A: No.

[7] Q: When you saw her in Ocean Beach
[8] going over the records with George Hesse,
[9] did you hear them having any personal
[10] conversation?

[11] A: Did I? No.

[12] Q: Have you ever seen her in George
[13] Hesse's presence at any other time?

[14] A: No.

[15] Q: Other than what Mr. Carter told
[16] you, do you have any basis to believe that
[17] she had on any occasion ever had sexual
[18] relations with George Hesse?

[19] A: Do I have any belief?

[20] Q: Yes.

[21] A: No.

[22] Q: Do you have any reason to believe
[23] that?

[24] A: No.

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F. Fiorillo

[1] Q: You heard her testify the other
[2] day that she was a lesbian. Um, when for
[3] the first time did you learn that Alison
[4] Sanchez was a lesbian?

[5] A: We knew this when she came out
[6] and posted it in the Newsday.

[7] Q: And when was that?

[8] A: When she got married.

[9] Q: Was that before or after your
[10] employment was terminated?

[11] A: It was I believe after.

[12] Q: Was it before or after you met
[13] with her at Civil Service?

[14] A: I believe it was after also.

[15] Q: Now are you claiming that Alison
[16] Sanchez gave information to George Hesse
[17] which enabled him to terminate your
[18] employment?

[19] A: I don't know what Alison Sanchez,
[20] um, gave George Hesse, but between the both
[21] of them and Maryanne Minerva, ultimately,
[22] the five of us were fired.

[23] Q: Well, do you have any knowledge
[24] of Alison Sanchez giving any information to

Page 435

[1] *F. Fiorillo*

[2] George Hesse which enabled him to terminate

[3] your employment, yes or no?

[4] **MR. GOODSTADT:** Objection.

[5] **A:** No.

[6] **Q:** Are you contending that Alison

[7] Sanchez took action which enabled George

[8] Hesse to terminate your employment, yes or

[9] no?

[10] **MR. GOODSTADT:** Objection.

[11] **A:** Yes.

[12] **Q:** What — identify for me the

[13] actions taken by Alison Sanchez which

[14] enabled George Hesse to terminate your

[15] employment?

[16] **A:** Well, ultimately, she took action

[17] with Hesse on trying to get these officers

[18] certified. She also —

[19] **Q:** I'm asking you only with

[20] respect —

[21] **MR. GOODSTADT:** Excuse me, he's

[22] answering the question. Let him

[23] answer — let him finish answering

[24] before —

[25] **MS. ZWILLING:** Fine. Fine.

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[1] *F. Fiorillo*

[2] **A:** George Hesse and Alison Sanchez

[3] were involved in, um — they had knowledge

[4] that these civilians came on to the Ocean

[5] Beach Police Department without being

[6] certified.

[7] **Q:** Okay. I'm asking about the

[8] termination of your employment.

[9] **A:** I wasn't finished. The —

[10] ultimately, because of those officers —

[11] those civilians actually not being certified

[12] as police officers until three years later

[13] or thereabouts, that caused a lot of

[14] friction in our department.

[15] If Alison Sanchez did her job, in

[16] my opinion, in 2002, Richie Bosetti and Gary

[17] Bosetti would have had to go through the

[18] same qualifications that I had to go

[19] through, Joe Nofi would have — that Joe

[20] Nofi went through, Kevin Lamm went through,

[21] Tommy Snyder and Eddie Carter to be

[22] certified.

[23] **Q:** Are you claiming that Alison

[24] Sanchez took actions in 2006 which enabled

[25] George Hesse to terminate your employment?

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[1] *F. Fiorillo*

[2] **A:** Yes.

[3] **Q:** Identify the actions taken by

[4] Alison Sanchez in 2006 which enabled George

[5] Hesse to terminate your employment?

[6] **A:** She had a meeting with Maryanne

[7] Minerva and George Hesse to — to find a way

[8] to — Alison Sanchez relayed the information

[9] to George Hesse and Maryanne Minerva, by her

[10] own admission, because she said she spoke to

[11] them about us before we were fired. Not

[12] when we were fired, before we were fired.

[13] **Q:** And what did Alison Sanchez relay

[14] to you that she had told George Hesse and

[15] Ms. Minerva?

[16] **A:** That they did everything that

[17] they had to do the right way.

[18] **Q:** And do you have any reason to

[19] believe that that information was incorrect?

[20] **A:** Well, I don't know what the right

[21] way is. But certainly it wasn't the right

[22] way to let people come on a police

[23] department, work, wear a firearm, a shield

[24] and have a police ID, and go on to the

[25] county range actually, and not even be

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[1] *F. Fiorillo*

[2] certified through Suffolk County Civil

[3] Service.

[4] **Q:** Do you have any basis to believe

[5] that Alison Sanchez had a desire to see you

[6] terminated from your position, yes or no?

[7] **MR. GOODSTADT:** Objection.

[8] **A:** Yes.

[9] **Q:** Okay. What is the basis for your

[10] belief that Alison Sanchez had a desire to

[11] see you terminated from your position?

[12] **A:** Because we were — meaning myself

[13] and the four others — were the catalysts

[14] for the — the civilians who were working in

[15] Ocean Beach to, in my opinion, get

[16] certified.

[17] **Q:** Okay. I'm not asking about your

[18] opinion. I'm asking you what evidence do

[19] you have that prior to your termination, it

[20] was Alison Sanchez's desire to see your

[21] employment terminated?

[22] **MR. GOODSTADT:** Objection.

[23] That is evidence.

[24] **A:** Well, it's almost — to me, it's

[25] like she was — she, in my opinion —

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F. Fiorillo

[1]
[2] **Q:** Again, respectfully,
[3] Mr. Fiorillo, you've told me twice you want
[4] to give your opinion. I understand your
[5] opinion.
[6] **A:** Okay. I think —
[7] **Q:** Please, I didn't interrupt you,
[8] sir. I'm going to ask you allow me the same
[9] courtesy now. Let's put the opinions aside.
[10] What evidence do you have? What did
[11] Ms. Sanchez say to you prior to your
[12] termination, what did she do prior to your
[13] termination which led you to believe that
[14] she wished to see your employment
[15] terminated?
[16] **MR. GOODSTADT:** Objection.
[17] **A:** She didn't say anything to me.
[18] She did say in the meeting, though, that she
[19] had a discussion with Maryanne Minerva and
[20] George Hesse about us.
[21] **Q:** And is that the full extent of
[22] what she told you in the meeting about the
[23] discussion at that prior meeting with
[24] Minerva and Hesse?
[25] **A:** Yeah. Because she said we didn't

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F. Fiorillo

[1] have a leg to stand on.
[2] **Q:** Okay. Did she tell you anything
[3] more about what was discussed at the meeting
[4] she had with Minerva and Hesse, other than
[5] to say there was a meeting?
[6] **A:** She didn't tell me the contents
[7] of the meeting.
[8] **Q:** Okay. Did Alison Sanchez do
[9] things to you, prior to your termination,
[10] which led you to believe she wished to see
[11] your employment terminated?
[12] **A:** She didn't do anything to me
[13] personally.
[14] **Q:** Did you ever have any discussion
[15] with Alison Sanchez, prior to your
[16] termination, about your employment, yes or
[17] no?
[18] **A:** No.
[19] **Q:** Prior to your termination, did
[20] you know who she was as being —
[21] **A:** Yes.
[22] **Q:** The Civil Service person
[23] involved —
[24] **A:** Yes. I spoke to her on the phone
[25]

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F. Fiorillo

[1]
[2] at least three times.
[3] **Q:** Was that about your employment?
[4] **A:** No.
[5] **Q:** Did you ever speak to Alison
[6] Sanchez about your employment, prior to your
[7] termination?
[8] **A:** No.
[9] **Q:** Did you ever speak to her prior
[10] to your termination?
[11] **A:** No.
[12] **Q:** Do you have any reason to believe
[13] that she bore some animosity toward you?
[14] **A:** Well, I sense — I sense it.
[15] **Q:** When for the first time did you
[16] sense animosity towards you on the part of
[17] Alison Sanchez?
[18] **A:** When I was in her office. She
[19] didn't even care. It was like she had no
[20] respect — we were coming in there just to
[21] talk to her, and it was like frivolous for
[22] her to just — to just entertain us. It was
[23] like very unprofessional, in my opinion.
[24] **Q:** Prior to your termination, did
[25] she ever do anything or say anything to you

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F. Fiorillo

[1] to indicate that she had a personal dislike
[2] for you?
[3] **MR. GOODSTADT:** Objection.
[4] **A:** Prior to my termination?
[5] **Q:** Yes.
[6] **A:** No.
[7] **Q:** Now when Alison Sanchez did these
[8] things to you that you appear to believe
[9] were improper, did you complain to Stan
[10] Pelc?
[11] **A:** I tried calling Stan Pelc and I
[12] spoke to — I either spoke to Stan Pelc or
[13] Alan Schneider.
[14] **Q:** What, if anything, did they tell
[15] you?
[16] **A:** Talk to Alison Sanchez.
[17] **Q:** Did you inform them that you felt
[18] that her — she gave you some wrong advice?
[19] **MR. GOODSTADT:** Objection.
[20] **A:** Well, I — when Alison Sanchez
[21] told us that we didn't have a leg to stand
[22] on, we — I just — you know, it was like
[23] how could that be? How could that be the
[24] end of the road? It was just too abrupt.
[25]

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F. Fiorillo

[1]
[2] Q: Okay. So what did you do to have
[3] Ms. Sanchez's supervisors review her action
[4] after you became dissatisfied with it?
[5] MR. GOODSTADT: Objection.
[6] He's testified —
[7] A: I didn't. I just took her word
[8] for what it was and — and went from there.
[9] Q: Well, did you ever call Stan
[10] Pelc?
[11] MR. GOODSTADT: Objection.
[12] A: Yeah, I did.
[13] Q: Was it before or after you met
[14] with Alison Sanchez?
[15] MR. GOODSTADT: We're going in
[16] circles here. He's already answered
[17] when he called him. What the telephone
[18] call was about. What Stan Pelc or Alan
[19] Schneider told him. You asked the same
[20] exact question.
[21] MS. ZWILLING: That's not quite
[22] the case, Mr. Goodstadt.
[23] MR. GOODSTADT: That's exactly
[24] the case. We can have the testimony
[25] read back.

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F. Fiorillo

[1]
[2] Q: When did you call Stan Pelc?
[3] A: I called Stan Pelc that Monday
[4] after I was fired.
[5] Q: Was that prior to your meeting
[6] with Alison Sanchez?
[7] A: That was prior to meeting with
[8] Alison Sanchez.
[9] Q: Did you call Stan Pelc or attempt
[10] to call Stan Pelc after your meeting with
[11] Alison Sanchez?
[12] A: Then I think I tried calling Alan
[13] Schneider.
[14] Q: My question was about Stan Pelc.
[15] Did you call Stan Pelc or try to call Stan
[16] Pelc after your meeting with Alison Sanchez?
[17] A: No.
[18] Q: Did you call Phil Cohen after
[19] your meeting with Alison Sanchez?
[20] A: I didn't even know who — to be
[21] honest with you, I never heard the name.
[22] Q: Did you ever call Alan Schneider?
[23] A: Yes.
[24] Q: When?
[25] A: That same day.

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F. Fiorillo

[1]
[2] Q: What same day?
[3] A: Monday. Monday. That Monday.
[4] Q: Prior to your meeting with Alison
[5] Sanchez?
[6] A: Yes.
[7] Q: Did you ever call Alan Schneider
[8] after your meeting with Alison Sanchez?
[9] A: No. Because after Alison —
[10] after they told me to — that's why I called
[11] Alison Sanchez. Because she was the one
[12] that handled the Ocean Beach account.
[13] Q: Now it's your belief that Alison
[14] Sanchez was engaged in some sort of
[15] conspiracy along with George Hesse against
[16] you?
[17] MR. GOODSTADT: Just to —
[18] A: I think there was something going
[19] on there.
[20] MR. GOODSTADT: Just to be
[21] clear, are you asking then or now?
[22] Q: You believe it now?
[23] A: Well, I don't — it's after the
[24] fact. I believe it happened then.
[25] Q: Well, when you walked out of

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F. Fiorillo

[1]
[2] Ms. Sanchez's office that day, did you think
[3] she was in cahoots or suspect she was in
[4] cahoots with George Hesse?
[5] A: Yes.
[6] Q: And when you walked out there
[7] that day believing she was in cahoots with
[8] George Hesse, what did you do to let Stan
[9] Pelc know that someone who worked beneath
[10] him was conspiring with someone else to do
[11] something illegal?
[12] A: I got to tell you, I didn't do
[13] anything, because I was — I felt like we
[14] exhausted everything that we could do. But
[15] I just felt it wasn't —
[16] MO MS. ZWILLING: Move to strike
[17] that portion which is nonresponsive.
[18] MR. GOODSTADT: He wasn't even
[19] done yet. He's not even done yet and
[20] you're jumping in on him.
[21] Q: Is it —
[22] MR. GOODSTADT: Finish your
[23] answer. Finish your answer.
[24] MS. ZWILLING: Mr. Goodstadt,
[25] you know —

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F. Fiorillo

[1] **MR. GOODSTADT:** You have to let
[2] him finish his answer. You have to.
[3] Otherwise get on the phone with the
[4] court if you want, and we'll explain to
[5] the court that you're cutting him off
[6] halfway through your — halfway through
[7] his answer and you're jumping in with
[8] another question.
[9] Let him finish the answer, just
[10] like you yelled at him for jumping in
[11] on your question.
[12] **MS. ZWILLING:** The reason —
[13] **MR. GOODSTADT:** Can I finish
[14] now? Now you're interrupting me. Now
[15] you're interrupting me.
[16] **MS. ZWILLING:** Mr. Goodstadt,
[17] you interrupted me. You interrupted
[18] me. And I also —
[19] **MR. GOODSTADT:** I interrupted
[20] you because you interrupted my client.
[21] **MS. ZWILLING:** Go ahead.
[22] **MR. GOODSTADT:** You didn't let
[23] him finish the answer. If you want to
[24] ever get done here, let him finish his
[25]

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F. Fiorillo

[1] answers, then you ask your next
[2] question. You can make whatever
[3] motions you want to make and raise them
[4] at whatever time you think it may be
[5] appropriate to raise them in the
[6] future, but we're never going to get
[7] done unless you ask the question, let
[8] him answer the question, and then ask
[9] the question again.
[10] **MS. ZWILLING:** I can't help
[11] observing, Mr. Goodstadt, that we've
[12] sat here for many hours and you're
[13] taking a rather shall we say different
[14] tone toward me than to other counsel.
[15] **MR. GOODSTADT:** Because other
[16] counsel, although he made his motions,
[17] when — when our client asked if he can
[18] explain, he said "yeah, explain to me,"
[19] and he did. He let him answer the
[20] questions.
[21] **MS. ZWILLING:** Your client can
[22] finish his answer, and then if we need
[23] to narrow it down or a motion needs to
[24] be made, we can do that.
[25]

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F. Fiorillo

[1] **MR. GOODSTADT:** That's all I'm
[2] asking for.
[3] **MS. ZWILLING:** Fine.
[4] **A:** Can I answer?
[5] **MR. GOODSTADT:** Finish your
[6] answer. Can you read back his answer
[7] so he can finish it.
[8] (The requested portion was read.)
[9] **A:** I just felt that there was
[10] something else we could do after that, but I
[11] didn't know what it was at the time. But I
[12] just didn't feel comfortable with just being
[13] fired in one day and there's nothing we
[14] could do about it.
[15] **Q:** So you felt that contacting Stan
[16] Pelc would be useless?
[17] **A:** I contacted him. I tried
[18] contact — I called him first.
[19] **Q:** Mr. Fiorillo, we're talking now
[20] about after the meeting with Alison Sanchez.
[21] Did you feel that it would be useless to
[22] contact Mr. Pelc after the meeting with
[23] Ms. Sanchez?
[24] **A:** I felt that after I spoke to
[25]

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F. Fiorillo

[1] Alison Sanchez, it didn't make any sense to
[2] go — what I think I was doing was I was
[3] going into a — it was like a futile effort
[4] because I had no — it was like I was
[5] going — chasing my tail. I was going in a
[6] circle.
[7] **Q:** Okay. So you felt it would be
[8] futile to contact Mr. Pelc after the
[9] meeting?
[10] **A:** I didn't say that. I said the —
[11] the — what I was going through was just
[12] not — it was a futile effort between going
[13] from Alison Sanchez, who tells me I don't
[14] have a leg to stand on, to Stan Pelc telling
[15] me to talk to Alison Sanchez. I mean,
[16] everybody was trying to pass the ball, and
[17] at the end of that meeting with Alison
[18] Sanchez, I was just exhaust — let me tell
[19] you the frame of mind I was in. I wasn't in
[20] a good frame of mind. I just got fired. I
[21] didn't know what to do.
[22] **Q:** Did you contact Cynthia DeStefano
[23] after your meeting with Alison Sanchez?
[24] **A:** No.
[25]

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F. Fiorillo

[1]
[2] Q: Did you contact Phil Cohen after
[3] your meeting —
[4] A: I didn't even know —
[5] Q: — with Alison Sanchez?
[6] A: No.
[7] Q: Did you contact Alan Schneider
[8] after your meeting with —
[9] A: No.
[10] Q: — Alison Sanchez? Did you send
[11] any letters or make any phone calls to the
[12] County Executive's office after your meeting
[13] with Alison Sanchez?
[14] A: No.
[15] Q: Did you inform the District
[16] Attorney that you felt that she was in some
[17] sort of elicited conspiracy with George Hesse?
[18] A: I spoke about Alison Sanchez at
[19] the District Attorney's office.
[20] Q: On how many occasions?
[21] A: On the occasion, um — on one
[22] occasion.
[23] Q: And was that before or after your
[24] meeting with her?
[25] A: That was after.

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F. Fiorillo

[1]
[2] Q: Who did you speak to in that
[3] time?
[4] A: I spoke to Walter Warkenthien and
[5] Richie Burke.
[6] Q: What did you tell them?
[7] A: I told them about how we were
[8] fired and what we did. We went to Civil
[9] Service and we spoke to Alison Sanchez, and
[10] we were told that, you know, we didn't have
[11] a leg to stand on.
[12] Q: Did you tell the representatives
[13] at that District Attorney's offices that you
[14] felt that Alison Sanchez was in some sort of
[15] illegal conspiracy with George Hesse?
[16] A: I — I told Walter — I expressed
[17] my view that, um, Hesse was involved with
[18] Civil Service somehow because the — the
[19] people who were underneath, um, Alison
[20] Sanchez's, um — I don't know what you want
[21] to call, um — control in Ocean Beach as far
[22] as getting them certified, was, um, was
[23] probably the cause of why we were fired.
[24] Q: Okay. I appreciate when you tell
[25] me that you told the District Attorney about

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F. Fiorillo

[1]
[2] what George Hesse did. But now I'm
[3] asking —
[4] A: But it was —
[5] Q: Please allow me to finish my
[6] question. I'm asking specifically about
[7] what you told the District Attorney about
[8] Alison Sanchez. Did you tell anyone at the
[9] District Attorney's office that you believed
[10] that Alison Sanchez had conspired with
[11] George Hesse to do something illegal? Did
[12] you tell them that?
[13] A: I didn't tell them that in those
[14] words. In your words.
[15] Q: Now when you began your
[16] employment with the Village, did you receive
[17] any letter informing you that you were being
[18] given employment?
[19] A: Did I receive any letter?
[20] Q: Yes.
[21] A: No. I was sponsored by Ocean
[22] Beach. I wasn't — I didn't, um — it
[23] wasn't — I wasn't — in other words, I had
[24] an interview with the chief.
[25] Q: Did they ever send you a letter

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F. Fiorillo

[1]
[2] making a formal written offer of employment?
[3] A: Who?
[4] Q: The Village of Ocean Beach.
[5] A: Um, I know I filled out an
[6] application. It might have been in that
[7] application. I'm not sure. I can't — I
[8] can't be for certain.
[9] Q: I'd like you to take a look at
[10] page 24 of the Complaint.
[11] A: 24.
[12] Q: Specifically paragraph 103, the
[13] last sentence, where it stated "Sanchez made
[14] these false statements with an intent to
[15] deceive Plaintiffs and prevent them from
[16] seeking legal recourse in connection with
[17] their termination." Prior to your meeting
[18] with Alison Sanchez, what were the steps, if
[19] any, that you were planning to take to seek
[20] legal recourse for your termination?
[21] A: Prior to meeting with —
[22] Q: Before you met with Alison
[23] Sanchez, what were the steps, if any, that
[24] you were planning to take to seek legal
[25] recourse for your termination that you refer

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F. Fiorillo

[1] to in paragraph 103?
[2]
[3] A: Ma'am, I just got fired on a
[4] Sunday and I saw Alison Sanchez on a
[5] Wednesday. So there wasn't much time for me
[6] to do anything from the time that we were
[7] fired to the time that we met with Alison
[8] Sanchez.
[9] Q: Well, at the time you met with
[10] Alison Sanchez, had you planned at that
[11] point to retain an attorney?
[12] A: I didn't — I have to tell you
[13] the truth, I didn't know what to do. I
[14] didn't know what we had. But when —
[15] after — after she told us that we had no
[16] leg to stand on, I found that very hard — I
[17] couldn't accept that.
[18] Q: Okay. Again, I'm focusing now on
[19] the time before the meeting. Had you
[20] decided to retain a lawyer before you met
[21] with Alison Sanchez, yes or no?
[22] A: We — I got to tell you, we
[23] talked about it prior to meeting with Alison
[24] Sanchez. We didn't know if we could. If
[25] we — what we were going to do. We just

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F. Fiorillo

[1] talked about a lot of things, because it
[2] was — everything was so up in the air. All
[3] I wanted out of the whole thing was just to
[4] get another police job. That's all I
[5] wanted. I didn't want to go through this,
[6] okay?
[7] Q: So if I understand you correctly,
[8] prior to you meeting with Alison Sanchez,
[9] you had not made up your mind to retain a
[10] lawyer, would that be correct?
[11] A: We didn't — it wasn't fixed in
[12] stone that, you know, we're going to go out
[13] Monday morning and get a lawyer, because we
[14] didn't even have time to digest this.
[15] Q: Fair enough. When for the first
[16] time did you and the other Plaintiffs make
[17] the decision to seek counsel?
[18] MR. GOODSTADT: Objection.
[19] A: After — after we met with Alison
[20] Sanchez.
[21] Q: How soon after you met with
[22] Alison Sanchez was the decision made to hire
[23] a lawyer?
[24] A: I don't know the timeline. I
[25]

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F. Fiorillo

[1] don't know. It was — it was before — it
[2] was after that meeting and obviously before
[3] June 30. So in that time period, right then
[4] and there. That was the concentration of
[5] it.
[6] Q: Okay. I'd like you to focus now
[7] on that sentence, again, where you say that
[8] Alison Sanchez prevented you from seeking
[9] legal recourse. Identify for me the steps
[10] Ms. Sanchez took to prevent you from
[11] obtaining legal counsel.
[12] MR. GOODSTADT: Objection.
[13] That's not what the paragraph says.
[14] MS. ZWILLING: Fine. Okay.
[15] Q: Identify for me the steps Alison
[16] Sanchez took to prevent you from seeking
[17] legal recourse?
[18] MR. GOODSTADT: Objection.
[19] Same objection. You're misquoting the
[20] paragraph.
[21] MS. ZWILLING: I'm reading from
[22] it.
[23] MR. GOODSTADT: No, you're not.
[24] MS. ZWILLING: Well, the
[25]

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F. Fiorillo

[1] question stands.
[2] MR. GOODSTADT: Well, then I'm
[3] going to object to it.
[4] MS. ZWILLING: All right.
[5] Fine. I'll read from it all night if
[6] you'd like. And you can, again, say
[7] you'll get the court on the phone at
[8] 7:30 on a Friday night.
[9] Q: Can you identify the steps you
[10] claim Alison Sanchez took to — and I'm
[11] reading from paragraph 103 now — "prevent
[12] them" — meaning you and the other
[13] Plaintiffs — "from seeking legal recourse"?
[14] What —
[15] MR. GOODSTADT: Same objection.
[16] You're reading half of a sentence.
[17] MS. ZWILLING: Fine. I'll read
[18] the first sentence.
[19] MR. GOODSTADT: Read the
[20] whole — read the whole sentence and
[21] you'll understand that what you're
[22] saying is not what that paragraph
[23] indicates. It's saying that she made
[24] the statement "and you have no leg to
[25]

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F. Fiorillo

[1]
[2] stand on," with an intent to prevent
[3] them from doing something. She didn't
[4] physically prevent them. She made a
[5] statement to them with the intent to
[6] prevent them from going forward.
[7] That's what paragraph 103 says.
[8] **MS. ZWILLING:** Again,
[9] Mr. Goodstadt, I can't help but notice
[10] that you're taking a very different
[11] tone with me. Please don't interrupt
[12] me like you did with other counsel.
[13] **MR. GOODSTADT:** Because your
[14] questions are different. It's a
[15] different set of circumstances.
[16] **MS. ZWILLING:** I mean, it's
[17] beginning to make me wonder perhaps
[18] there's another reason for it.
[19] **MR. GOODSTADT:** Woe. Woe.
[20] Woe. You've just now accused
[21] something — you just accused another
[22] professional of doing something for
[23] another reason. What's the other
[24] reason that you're referring to?
[25] **MS. ZWILLING:** I said I hope —

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F. Fiorillo

[1] **MR. GOODSTADT:** I want to know
[2] what your basis is.
[3] **MS. ZWILLING:** I said I —
[4] **MR. GOODSTADT:** No. No.
[5] You've now accused me on the record —
[6] **MS. ZWILLING:** That's not true.
[7] **MR. GOODSTADT:** — that you
[8] believe there's another reason, other
[9] than the fact that your questions,
[10] particularly the last one which is
[11] taking a sentence, a half of a sentence
[12] out of the Complaint, taken out of
[13] context, you said that you're beginning
[14] to believe that there's another reason
[15] for it. What's the reason that you're
[16] beginning to believe?
[17] **MS. ZWILLING:** You know, it's
[18] Friday night. It's just about 7:00. I
[19] mean, perhaps we're all getting a bit
[20] testy.
[21] **MR. GOODSTADT:** I'm not getting
[22] testy. You've accused me now of
[23] something, and I want to know what
[24] you're accusing me of on the record.
[25]

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F. Fiorillo

[1]
[2] **MS. ZWILLING:** I didn't accuse
[3] you of anything.
[4] **MR. GOODSTADT:** Yes, you did.
[5] **MS. ZWILLING:** I'm sorry if you
[6] perceived it that way.
[7] **MR. GOODSTADT:** You said to me
[8] that you believe that there's another
[9] reason, other than for what I stated.
[10] What's that reason?
[11] **MS. ZWILLING:** That's not what
[12] I said.
[13] **MR. GOODSTADT:** Can you read
[14] back what she said, please.
[15] **MR. NOVIKOFF:** You really want
[16] to —
[17] **MR. GOODSTADT:** This is a joke
[18] that, on the record, she's accusing
[19] another attorney of having some —
[20] **MR. NOVIKOFF:** But you've asked
[21] her —
[22] **MR. GOODSTADT:** — basis.
[23] **MR. NOVIKOFF:** You've asked her
[24] to explain. She's given you her
[25] explanation.

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F. Fiorillo

[1] **MR. GOODSTADT:** She hasn't.
[2] **MR. NOVIKOFF:** Do you need to
[3] review the record? I mean, because I
[4] can guarantee you —
[5] **MR. GOODSTADT:** I want to know
[6] what basis she's referring to.
[7] **MR. NOVIKOFF:** Andrew, but I
[8] can guarantee what's going to happen is
[9] the court reporter is going to read the
[10] record back, you're going to make the
[11] same comments to her that you just
[12] made, and counsel's going to make the
[13] same response to you, and you'll be
[14] going in a circle.
[15] **MR. GOODSTADT:** Right. But
[16] in —
[17] **MS. ZWILLING:** I'd really
[18] rather not begin making any response.
[19] **MR. GOODSTADT:** — she was able
[20] to intimidate or attempt to intimidate
[21] my colleague, Ariel Graff, last week or
[22] a couple days ago, the same is not
[23] going to happen right here. And she's
[24] now accused me of doing something. And
[25]

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[1] *F. Fiorillo*
[2] I want to know what she's accusing me
[3] of doing.
[4] **MS. ZWILLING:** Your colleague
[5] didn't seem to be the least bit
[6] intimidated. Well —
[7] **MR. NOVIKOFF:** Now you've just
[8] accused her of doing something. Why
[9] don't we —
[10] **MR. GOODSTADT:** The record is
[11] what it is.
[12] **MS. ZWILLING:** To say he was
[13] intimidated — I don't want to say
[14] anything that's going to cast a
[15] dispersion on Mr. Graff, but if you had
[16] been there, you would perhaps take a
[17] different view.
[18] **MR. NOVIKOFF:** Why don't we —
[19] I don't see much being accomplished
[20] between the two of you.
[21] **MR. GOODSTADT:** I understand
[22] that. But I've now been accused on the
[23] record by another professional in a
[24] federal court litigation of having some
[25] ulterior motive of making an objection,

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[1] *F. Fiorillo*
[2] and I want to know what that accusation
[3] is. I think I have a right to know
[4] what it is.
[5] **MS. ZWILLING:** Mr. Goodstadt,
[6] you can have the record read back if
[7] you want, but that was not what I said,
[8] okay? Now can we just finish the
[9] deposition?
[10] **MR. GOODSTADT:** I would love
[11] to. If you can ask appropriate
[12] questions, then we'll finish the
[13] deposition.
[14] **MS. ZWILLING:** Okay.
[15] **Q:** Referring your attention to
[16] paragraph 103, specifically the sentence
[17] that reads "moreover, Sanchez made these
[18] false statements with an intention to deceive
[19] Plaintiffs and prevent them from seeking
[20] legal recourse in connection with their
[21] termination." I would like you to identify
[22] the things that Alison Sanchez did or the
[23] steps she took to "prevent (them) from
[24] seeking legal recourse in connection with
[25] their termination"?

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[1] *F. Fiorillo*
[2] **MR. GOODSTADT:** Same objection.
[3] You can answer, if you know what she's
[4] even talking about.
[5] **A:** Ma'am, I'm a little confused on
[6] what just happened, and I don't know — I
[7] need it to be simplified.
[8] **Q:** What did Alison Sanchez do to
[9] prevent you personally from seeking legal
[10] recourse in connection with your
[11] termination?
[12] **MR. GOODSTADT:** Objection.
[13] **A:** She stated to me that I didn't
[14] have a leg to stand on.
[15] **Q:** And how did that stop you, if it
[16] did, from getting a lawyer?
[17] **MR. GOODSTADT:** Objection.
[18] **A:** Well, at that point in time,
[19] she's Civil Service, so I'm going by what
[20] she's telling me. And she — she knows
[21] more than I do, because I don't know
[22] anything about Civil Service.
[23] **Q:** Well, other than that statement
[24] that you don't have a leg to stand on, can
[25] you identify for me all of the other things

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[1] *F. Fiorillo*
[2] she did, if any, to prevent you from seeking
[3] legal recourse for your termination?
[4] **MR. GOODSTADT:** Objection.
[5] **A:** I don't believe she told us the
[6] truth.
[7] **Q:** Okay. And how did that prevent
[8] you from seeking legal recourse for your
[9] termination?
[10] **MR. GOODSTADT:** Objection.
[11] **Q:** If it did?
[12] **A:** Well, ultimately, this is what
[13] happened. When she stated what she stated
[14] to me, that I didn't have a leg to stand on,
[15] I thought that was the end of the road,
[16] because she told me, "That's it. You don't
[17] have a leg to stand on."
[18] **Q:** But that wasn't the end of the
[19] road, correct?
[20] **A:** Well, obviously we're here.
[21] **Q:** Obviously. Now you mentioned
[22] that you had a conversation with someone
[23] from the District Attorney's office who
[24] stated to you I believe — I believe the
[25] words you used were "I think you need a

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[1] *F. Fiorillo*
[2] lawyer." Who is it that made that statement
[3] to you?
[4] A: Walter Warkenthien.
[5] Q: And when was it he made that
[6] statement to you?
[7] A: When I met with him.
[8] Q: When was that?
[9] A: After — I'm not quite sure of
[10] the timeline on this. I'm not even — I
[11] don't even want to guess. I don't — I
[12] don't even know the timeline anymore.
[13] Q: Was it before or after you
[14] retained Mr. Goodstadt?
[15] MR. GOODSTADT: Objection.
[16] When he obtained us, I mean, A, he's
[17] testified to the best of his
[18] recollection —
[19] MS. ZWILLING: Fine. I'll
[20] withdraw the question.
[21] DI MR. GOODSTADT: When he
[22] actually engaged us, I'm going to
[23] instruct him not to answer for the same
[24] reason as before.
[25] MS. ZWILLING: Fine.

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[1] *F. Fiorillo*
[2] Q: Was that before or after your
[3] meeting with Alison Sanchez?
[4] A: I'm trying to think of — I met
[5] Walter Warkenthien before, um — I'm trying
[6] to think. I think the Samuel Gilbert
[7] incident was the first incident when I had
[8] contact with the District Attorney's office.
[9] Q: I'm just trying to place the date
[10] of that remark. Was it made before or after
[11] you met with Alison Sanchez?
[12] A: I can't remember, ma'am.
[13] Q: Was it before or after you spoke
[14] to an attorney for the first time?
[15] MR. GOODSTADT: Objection.
[16] A: Wait a second. Was the — when
[17] we retained a lawyer, was it after met —
[18] MR. GOODSTADT: She didn't ask
[19] you about retaining a lawyer.
[20] Q: That's not my question. Why
[21] don't I withdraw the question and rephrase
[22] it this way. Was that statement made to you
[23] before or after you or the other Plaintiffs
[24] contacted the firm that's presently
[25] representing you?

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[1] *F. Fiorillo*
[2] MR. GOODSTADT: Objection.
[3] A: I didn't have a lawyer — I
[4] didn't have a lawyer at the time.
[5] Q: So it was before you contacted
[6] the firm that's presently representing you?
[7] A: Right.
[8] Q: When did you first learn that
[9] George Hesse had boasted about having a
[10] sexual relationship with Alison Sanchez?
[11] A: He said that he took her out to
[12] lunch, and he explained what he did with
[13] her, and that was the first time.
[14] Q: Did he say that to you?
[15] A: Yes.
[16] Q: And what did he say he did with
[17] her?
[18] A: What did he say?
[19] Q: Yeah.
[20] A: He said he had sexual intercourse
[21] with her.
[22] Q: And when did he say this to you?
[23] A: This was in 2005 I believe.
[24] Q: And did you believe him at the
[25] time?

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[1] *F. Fiorillo*
[2] A: Well, George Hesse, if you know
[3] him, he tends to brag about his conquests.
[4] So I didn't doubt him for a minute.
[5] Q: Well, if he tended to brag, why
[6] wouldn't you doubt him?
[7] MR. GOODSTADT: Objection.
[8] A: Say that again.
[9] Q: If he tended to brag, why
[10] wouldn't you doubt him?
[11] MR. GOODSTADT: Objection.
[12] A: Because from what he did in Ocean
[13] Beach, it was well known that who he had sex
[14] with was who he had sex with.
[15] Q: Now do you have any other basis
[16] to believe that he had a sexual relationship
[17] with her, other than that statement he made
[18] to you?
[19] A: No. That's the only — that's
[20] the only statement.
[21] Q: Did you ever take any steps to
[22] determine who in Civil Service had, um, veto
[23] power over Alison Sanchez's decisions?
[24] A: No, I did not.
[25] MR. GOODSTADT: Objection.

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[1] *F. Fiorillo*
[2] **MS. ZWILLING:** Nothing further.
[3] **EXAMINATION BY**
[4] **MR. CONNOLLY:**
[5] **MR. CONNOLLY:** I have one
[6] question. Can you hear me?
[7] **Q:** Mr. Fiorillo, when you
[8] had that — when you had that conversation
[9] with Mr. Hesse regarding relations — his
[10] relations with Ms. Sanchez, was anybody else
[11] present?
[12] **A:** No.
[13] **MR. CONNOLLY:** I have no
[14] further questions.
[15] **MR. GOODSTADT:** I have no
[16] questions.
[17] **MR. NOVIKOFF:** I have, but I'm
[18] not asking them.
[19] **MR. GOODSTADT:** So this
[20] concludes the deposition?
[21] **MR. NOVIKOFF:** Yes.
[22] **THE VIDEOGRAPHER:** This
[23] concludes today's deposition for Frank
[24] Fiorillo on February 20, 2009. The
[25] time is 6:58 p.m. We are off the

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[1] *F. Fiorillo*
[2] record.
[3]
[4]
[5] **FRANK FIORILLO**
[6]
[7] Subscribed and sworn to
[8] before me this _____ day
[9] of _____ 2009.
[10]
[11]
[12] **NOTARY PUBLIC**
[13]
[14]
[15]
[16]
[17]
[18]
[19]
[20]
[21]
[22]
[23]
[24]
[25]

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[8] of Brookhaven. 315
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[17] **EXAMINATION BY**
[18] **MR. NOVIKOFF:** 6
[19] **MR. CONNOLLY:** 426, 471
[20] **MS. ZWILLING:** 431
[21]
[22]
[23]
[24]
[25]

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[1]
[2] **CERTIFICATION**
[3]
[4]
[5] I, Edward Leto, a Notary Public
[6] in and for the State of New York, do hereby
[7] certify:
[8] **THAT** the witness(es) whose
[9] testimony is herein before set forth, was
[10] duly sworn by me; and
[11] **THAT** the within transcript is a
[12] true and accurate record of the testimony
[13] given by said witness(es).
[14] I further certify that I am not
[15] related either by blood or marriage, to any
[16] of the parties to this action; and
[17] **THAT** I am in no way interested in
[18] the outcome of this matter.
[19] **IN WITNESS WHEREOF,** I have
[20] hereunto set my hand this ^ ^ day of ^
[21] 2009.
[22]
[23]
[24]
[25] **EDWARD LETO**

- [1]
[2] ERRATA SHEET
[3] I wish to make the following changes,
[4] for the following reasons:
[5] PAGE LINE
[6] _____ CHANGE: _____
[7] REASON: _____
[8] _____ CHANGE: _____
[9] REASON: _____
[10] _____ CHANGE: _____
[11] REASON: _____
[12] _____ CHANGE: _____
[13] REASON: _____
[14] _____ CHANGE: _____
[15] REASON: _____
[16] _____ CHANGE: _____
[17] REASON: _____
[18] _____ CHANGE: _____
[19] REASON: _____
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[24] _____ CHANGE: _____
[25] REASON: _____

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